This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

+ *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.

+ *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.

+ *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.

+ *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at `http://books.google.com/`

Y4.C73/7:95-132 P12-131

TRUCK SAFETY ACT OF 1978

95-2

STANFORD LIBRARIES

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

S. 2970

TO PROMOTE COMMERCIAL MOTOR VEHICLE SAFETY, TO PREVENT INJURY TO COMMERCIAL MOTOR VEHICLE OPERATORS, AND FOR OTHER PURPOSES

SEPTEMBER 8, 1978

Serial No. 95–132

Printed for the use of the
Committee on Commerce, Science, and Transportation

STANFORD UNIVERSITY
MAR 1979
GOVT DOCUMENT DEPARTMENT

U.S. GOVERNMENT PRINTING OFFICE
35-692 O WASHINGTON : 1978

IV, 194 p.

Digitized by Google

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

HOWARD W. CANNON, Nevada, *Chairman*

WARREN G. MAGNUSON, Washington
RUSSELL B. LONG, Louisiana
ERNEST F. HOLLINGS, South Carolina
DANIEL K. INOUYE, Hawaii
ADLAI E. STEVENSON, Illinois
WENDELL H. FORD, Kentucky
JOHN A. DURKIN, New Hampshire
EDWARD ZORINSKY, Nebraska
DONALD W. RIEGLE, JR., Michigan

JAMES B. PEARSON, Kansas
ROBERT P. GRIFFIN, Michigan
TED STEVENS, Alaska
BARRY GOLDWATER, Arizona
BOB PACKWOOD, Oregon
HARRISON H. SCHMITT, New Mexico
JOHN C. DANFORTH, Missouri

AUBREY L. SARVIS, *Staff Director and Chief Counsel*
EDWIN K. HALL, *General Counsel*
SALLIE ADAMS, *Professional Staff Member*
MALCOLM M. B. STERRETT, *Minority Staff Director*
RONALD JOHNSON, *Minority Staff Counsel*
CINDY DOUGLASS, *Minority Staff Counsel*

Digitized by Google

CONTENTS

	Page
Opening statement by the Chairman	1
Text of S. 2970	3
Agency comments:	
National Transportation Safety Board	22
Interstate Commerce Commission	22
Department of Transportation	23

LIST OF WITNESSES

Fields, C. H., assistant director, National Affairs, American Farm Bureau Federation	151
Prepared statement	154
Ginsburg, Susan, safety and health director, Professional Drivers Council (PROD); accompanied by Arthur L. Fox, counsel; Bill Berryhill; Armand (Bud) Mayer; Milt McLarty; Bailey Wharton; Robert Doyle; George Zojicek; and Paul Georg	112
Prepared statement of Ms. Ginsburg	130
Prepared statement of Mr. Georg	138
Prepared statement of Mr. Zojicek	139
Questions of the Committee and the answers thereto	140
Hardy, Heber, chairman, Nevada Public Service Commission, National Association of Regulatory Utility Commissioners; accompanied by Paul Rodgers, general counsel; and Margo James, director, congressional relations	59
Prepared statement	63
Hassell, John S., Jr., Deputy Administrator, Federal Highway Administration; accompanied by Howard Anderson, Associate Administrator for Safety; Robert A. Kaye, Director, Bureau of Motor Carrier Safety; and George Parker, Chief, Crash Avoidance Division, National Highway Traffic Safety Administration	33
Prepared statement	44
Questions of the Committee and the answers thereto	46
Kauffman, John, vice president and director of transportation, the American Paper Institute and National Forest Products Association	155
Letter of October 23, 1978	161
King, Hon. James, Chairman, National Transportation Safety Board	48
Questions of the committee and the answers thereto	54
Lacey, Hugh F., Private Truck Council of America, Inc., General Traffic manager of Joseph T. Ryerson & Son, Inc.; accompanied by Richard Henderson, director of operations; and William Quinlan, special counsel	102
Prepared statement	105
O'Hara, Bartley, legislative attorney, International Brotherhood of Teamsters; accompanied by George Mernick	107
Questions of the Committee and the answers thereto	111
Shay, Harold A., vice chairman, American Trucking Associations, Inc.; accompanied by Ken Stinger, legislative counsel: Will Johns, safety director; Nelson Cooney, general counsel; and Larry Stern, Stern's Transport	85
Prepared statement	89
Questions of the Committee and the answers thereto	98

Digitized by Google

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

	Page
Aders, Robert O., on behalf of Food Marketing Institute, statement	163
Baker, Susan P., M.P.H., associate professor, School of Hygiene and Public Health, The Johns Hopkins University, letter with attachments of September 1, 1978	172
Chomski, Joseph, attorney, Birch, Horton, Bittner and Monroe, letter of October 6, 1978	160
Gold, Charles, analytical engineer, Smithers Scientific Services, Inc., letter of October 5, 1978	124
Hall, Gerald N., president, Motor Transit Co., letter with enclosure of September 27, 1978	129
Harkins, William E., line haul driver, Interstate Motor Freight, letter	191
Koegel, James J., corporate attorney, Jones Motor, letter of November 14, 1978	124
McCamant, William C., executive vice president, National Association of Wholesaler-Distributors, statement	165
McMorris, Donald L., on behalf of Yellow Freight Systems, Inc., statement	116
Miller, Robert, statement	168
Patrick, K. L., director of safety, Western Wood Products Association, letter of September 5, 1978	192
Percy, Hon. Charles H., U.S. Senator from Illinois, statement	25
Reeves, Kinzey, executive vice president, Ryder Truck Lines, Inc., letter of September 19, 1978	126
Rolston, K. S., executive vice president, American Pulpwood Association, statement	171
Sheehy, Donald R., president, Jones Motor, statement	120
Steele, Harold B., president, Illinois Agricultural Association, letter of September 5, 1978	190

Digitized by Google

TRUCK SAFETY ACT OF 1978

FRIDAY, SEPTEMBER 8, 1978

U.S. SENATE,
COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met at 9:45 a.m. in room 235 of the Russell Senate Office Building, Hon. Howard W. Cannon (chairman of the committee) presiding.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. The committee will come to order.

Today, the Senate Committee on Commerce, Science, and Transportation begins a hearing on S. 2970, the Truck Safety Act of 1978.

This legislation, introduced by Senator Percy, would greatly strengthen the power of the Federal Government in the truck safety area.

Yesterday, this committee heard testimony on more limited aspects of the truck safety—the issue of regulation of truck length. Today's hearing concerns the broader question of how to regulate the multitude of heavy-duty commercial vehicles on this Nation's highways.

This Nation and its economy are highly dependent on trucks to ship goods through the country. Approximately 4½ million interstate truck drivers share the Nation's highways with other drivers.

In the report entitled, "The Federal Motor Carrier Safety Program: Not Yet Achieving What the Congress Wanted," the General Accounting Office—GAO—noted that trucks and buses were involved in approximately 20 percent of highway accidents resulting in deaths in this country.

The GAO report also stated that over one-third of the 54,800 trucks and buses inspected by Federal personnel during 1974 and 1975 were unsafe and taken off the road until repaired. The GAO found that the number of Federal inspectors was inadequate to carry out sufficient inspections in the Federal Motor Carrier Safety area. Thus, the safety aspects of trucking are of particular concern to the committee.

Recently, there was further confirming evidence of potential serious hazards on the highways as a result of unsafe trucks. In early August, the Department of Transportation's—DOT—Bureau of Motor Carrier Safety, in conjunction with the Pennsylvania State Police, conducted an intensive roadside inspection campaign near Berwick, Pa. According to DOT's preliminary report, some 30 inspectors conducted visual inspections of all trucks passing on the highway. If nothing was

Digitized by Google

obviously wrong on initial visual inspection, the vehicle was immediately waved on. However, if the inspectors found something obviously wrong, then the vehicle was pulled over for more thorough inspection.

These more thorough inspections yielded some startling results.

Out of 711 vehicles, 54 percent were actually put out of service until the violations were fixed.

The DOT emphasized that these defects were significant enough safety defects, such a faulty or virtually inoperative braking systems, that in the judgment of the inspectors they were likely to cause accidents.

The trucks put out of service averaged 4½ such defects.

Also, the DOT found 24 drivers violating the Federal regulation that limits their time behind the wheel.

Despite the scope of these truck safety problems, S. 2970 goes beyond the issue of truck safety to apply to the safety of operation of all commercial motor vehicles over 10,000 pounds gross vehicle weight rating. Thus, this legislation would address the regulation of buses, farm equipment, and all other commercial vehicles above 10,000 gross vehicle weight.

In the course of these hearings, the committee will be particularly interested in analyzing the adequacy of the Federal regulation of the commercial motor vehicles and what, if anything, is necessary in order to strengthen these programs.

The committee is also concerned about how Federal programs interact with State regulation of commercial motor vehicles and whether this relationship is operating smoothly and effectively.

As part of this overall examination, the committee will seek to determine whether the funding and manpower allocated to these programs is adequate to carry out these important functions.

The committee will also focus on how priorities are set in the regulation of commercial vehicles and what method of initiating investigations of improper behavior in this area would be most effective.

In examining these issues, the committee is fortunate to be receiving testimony today from an extremely wide spectrum of witnesses drawn from the Federal Government, State agencies, private trucking organizations, farm representatives, the Teamsters Union, and private experts.

[The bill and agency comments follow:]

Digitized by Google

95TH CONGRESS
2D SESSION

S. 2970

IN THE SENATE OF THE UNITED STATES

APRIL 20 (legislative day, FEBRUARY 6), 1978

Mr. PERCY introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To promote commercial motor vehicle safety, to prevent injury to commercial motor vehicle operators, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Truck Safety Act of 1978".

SEC. 2. The Congress finds that, because commercial motor vehicles pose a risk to public safety due to their extensive use and substantial size and weight, because existing regulations pertaining to the safe operation of commercial motor vehicles are inadequate, and because existing laws fail to protect driver-employees from discrimination

Digitized by Google

arising from their efforts to promote compliance with safe operating procedures, it is, therefore, in the public interest to enhance commercial motor vehicle safety and to reduce highway fatalities, injuries, and property damage which may be attributed to these causes.

SEC. 3. It is declared to be the purpose of this Act to promote and protect the American public from the hazards of unsafe commercial motor vehicle operations, to provide drivers of commercial motor vehicles with safe and healthy working conditions, and to insure prompt and continuous compliance by all persons subject to this Act with the rules and regulations issued hereunder.

SEC. 4. For the purposes of this Act—

(1) the term "Secretary" means the Secretary of Transportation;

(2) the term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons using or operating commercial motor vehicles in commerce;

(3) the term "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and place outside of such State, or which affects trade, traffic, or transporta-

Digitized by Google

tion between a State and any place outside of such State;

(4) the term "employer" means any person engaged in a business affecting commerce who owns, leases, or operates commercial motor vehicles in connection with that business, or assigns employees to operate them in commerce, but such term does not include the United States, or any State, or political subdivision of a State;

(5) the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam;

(6) the term "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport people, commodities, or equipment in commerce; and

(7) the term "Board" means the National Transportation Safety Board.

APPLICABILITY

SEC. 5. This Act shall apply to the safety of operation of all commercial motor vehicles over 10,000 pounds GVWR (gross vehicle weight rating). It shall also apply to the maximum hours, qualifications, working conditions, and

Digitized by Google

duties and responsibilities of all persons who operate such commercial motor vehicles.

DUTIES

SEC. 6. (a) Each employer shall provide to each of his employees safe vehicles and working conditions that are free from recognized hazards which cause or are likely to cause death or physical harm, and shall comply with the safety and health standards promulgated under this Act.

(b) Each employee shall comply with the safety and health standards and rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

REGULATORY AUTHORITY AND STANDARDS

SEC. 7. (a) In carrying out the provisions of section 1655(e) of title 49, United States Code, in accordance with section 5 of this Act, the Secretary shall establish, maintain, and monitor safety rules and regulations necessary to assure, to the extent practicable, that—

(1) commercial motor vehicles be so maintained as to enable their safe operation;

(2) the duration, frequency, and scheduling of the responsibilities of drivers of commercial motor vehicles does not unduly contribute to driver fatigue or to a driver's inability to operate safely; and

(3) the health and physical condition of drivers of

Digitized by Google

commercial motor vehicles be adequate to enable them to safely drive the vehicles they customarily operate.

(b) The Secretary shall regulate the working conditions and operating practices of employees when operating commercial motor vehicles and shall establish, maintain, and monitor safety and health rules and regulations necessary to assure, to the extent technology permits, that no employee will suffer injury or material impairment of health or functional capacity due to his exposure to such working conditions during his working life.

(c) All rules and regulations issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title).

(d) In promulgating, modifying, or revoking rules and regulations under this Act, the Secretary shall not in any material way reduce (i) the protections currently afforded employees operating commercial motor vehicles, or (ii) the safety and maintenance requirements provided by safety and health rules and regulations of commercial motor vehicle equipment.

(e) The Secretary shall conduct, directly or indirectly, the research, development, demonstrations, and training activities necessary to develop rules and regulations under this section, to design and develop improved enforcement

Digitized by Google

procedures and technologies, and to familiarize all affected persons with such rules and regulations.

RECORDKEEPING, INSPECTIONS, AND INVESTIGATIONS

SEC. 8. (a) The Secretary is authorized to require, by regulation issued pursuant to section 553 of title 5, United States Code, that persons subject to this Act establish and maintain such records, and make such reports as are necessary to insure compliance with this Act so that reliable information can be developed concerning health and safety, vehicle conditions, employee qualifications and conduct, vehicle inspection and maintenance practices, and the safe operation of vehicles. In addition, where appropriate, any such regulation may prescribe the manner, type, and frequency of examinations by medical authorities or other tests which shall be provided by the employer to employees exposed to such hazards in order to permit the Secretary, employer, and employees, to most effectively determine whether the health and safety of such employees is adversely affected by such exposure.

(b) The Secretary is authorized, to the extent necessary to carry out his responsibilities under this Act, to conduct investigations and inspections, compile statistics, make reports, hold hearings, require by subpena or otherwise the production of documents, records, and property, and take depositions. Whenever practicable, investigations and inspec-

Digitized by Google

tions under this subsection shall be conducted without advance notice. Subject to regulations issued by the Secretary, representatives of the employer and his employees shall each be accorded an opportunity to be present and participate in any workplace inspection authorized under this subsection.

(c) Any person, including an employee or employee representative, who believes that a safety or health standard, requirement, or regulation issued under this Act is being violated, or has been violated within the preceding ninety days, may request an investigation by filing a written complaint with the Secretary setting forth with reasonable particularity the nature of the violation. Whenever the Secretary determines from the complaint that there are no reasonable grounds to believe that a violation exists or may have occurred, he shall timely notify the complainant in writing of his determination and the reasons therefor. Whenever the Secretary determines that there are reasonable grounds to believe that a violation exists or has occurred, he shall conduct an investigation as soon as practicable, shall timely notify the complainant of his findings, and shall take such further action as may be appropriate for carrying out the purposes of this Act. The Secretary shall not disclose the identity of complainants unless he determines that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every measure

Digitized by Google

to assure that the complainant is not subject to harassment, intimidation, or financial loss as a result of such disclosure.

CITATIONS, ORDERS, AND PENALTIES

SEC. 9. (a) If, upon inspection or investigation, the Secretary finds that a material health or safety violation exists or has occurred, he shall timely issue a citation. Each citation shall be in writing and shall describe with reasonable particularity the nature of the violation found and the section of the Act, rule, standard, regulation, or order which has been violated. The citation shall fix a reasonable time for abatement of the violation, and shall assess a civil penalty not to exceed $2,500 for each offense. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, he may assess a civil penalty not to exceed $10,000 for each offense. Each day of such violation determined by the Secretary under this section shall constitute a separate offense. In determining the amount of the penalty, the Secretary shall take into account, but need not make specific findings of fact concerning, the nature, circumstances, extent and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, past history of compliance, and other matters as justice and

Digitized by Google

public safety require. In each case, the assessment shall be reasonably calculated to induce further compliance.

(b) The Secretary shall further require any persons served with a citation to post it or notice thereof in such place or places and for such duration as the Secretary may deem appropriate to aid in the enforcement of the Act.

(c) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in citations and orders.

(d) Any person who knowingly and willfully violates any standard, rule, regulation, or order under this Act or who knowingly and willfully makes any false statement or representation required under this Act shall, upon conviction, be subject for each offense to a fine not to exceed $25,000, or imprisonment for a term not to exceed one year, or both.

(e) All penalties and fines imposed under this section shall accrue and be payable to the Highway Trust Fund.

ENFORCEMENT AND REVIEW

SEC. 10. (a) If, after investigation, the Secretary issues a citation or order under this Act, he shall timely serve a copy upon the violator either by certified or registered mail or by personal service, together with notice that the violator has fifteen working days within which to notify the Secre-

Digitized by Google

tary that he wishes to contest the citation or order. If within the fifteen working days from the receipt of the citation or order issued by the Secretary the violator fails to notify the Secretary that he intends to contest the citation or order, it shall be deemed final and shall not be subject to review by any court or agency.

(b) If a violator notifies the Secretary that he intends to contest a citation or order issued under this Act, the Secretary shall promptly advise the National Transportation Safety Board of such notification, and the Board shall afford the violator an opportunity for a hearing in accordance with section 554 of title 5, United States Code. The commencement of proceedings under this subsection shall not, unless ordered by the Board, operate to stay the citation or order. The Board shall thereafter issue an order based on findings of fact, affirming, modifying, or vacating the Secretary's citation or order, or directing other appropriate relief, and such order shall become final and not subject to review thirty days after its issuance. The Board shall promulgate reasonable rules of procedures for the conduct of such proceedings: *Provided, however,* That such rules give an opportunity to affected persons to participate as parties.

(c) Any person adversely affected or aggrieved by an order of the Board issued under this section may obtain review of such order in any United States court of appeals

Digitized by Google

for the circuit in which the violation is alleged to have occurred or where the violator has his principal place of business, or in the court of appeals for the District of Columbia circuit, by filing in such court within thirty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board and to the other parties, and thereupon the Board shall file in the court the record of the proceedings as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceedings and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside, in whole or in part, the order of the Board and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Board. No objection that has not been urged before the Board shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The finding of the Board with respect to questions of fact shall be conclusive if supported by substantial

Digitized by Google

evidence on the record considered as a whole. Upon the filing of the record with the court, its jurisdiction shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

(d) The Secretary may also obtain review of any final order of the Board by filing a petition for such relief in the United States court of appeals for the circuit in which the alleged violation occurred or in which the violator has his principal place of business.

(e) Any fine or assessment modified or abated by the Board or a court under this section shall be returned with interest to the violator.

(f) The Secretary may obtain enforcement, including injunctive relief, of any uncontested citations or orders issued under this section by applying to the United States district court for the district where the violation occurred or where the cited party has his principal office or residence. All findings of fact, conclusions of law, fines, penalties, and orders, issued by the Secretary or the Board shall be conclusive and shall not be subject to review under this subsection. In addition to granting enforcement, the district court shall assess

Digitized by Google

an appropriate penalty for noncompliance and award such further relief as justice and public safety require.

SEC. 11. Except as provided in section 518 (a) of title 28, United States Code, relating to litigation before the Supreme Court, the General Counsel of the Department of Transportation may appear for and represent the Secretary in proceedings before the Board and in any civil litigation brought under this Act but all such litigation shall be subject to consultation with and the concurrence of the Attorney General.

EMPLOYEE SUITS

SEC. 12. (a) No employer shall discharge or in any manner discriminate against an employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under, or relating to, any standard, requirement, or regulation issued under this Act, or has testified, or is about to testify, or has participated in any way, in such proceeding.

(b) No employer shall discharge or in any manner discriminate against an employee for refusing to operate equipment subject to motor carrier safety regulations in violation of hours of service regulations or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The

Digitized by Google

unsafe conditions causing the employee's apprehension of injury must be of such a nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

(c) Any employee who is discharged or in any manner discriminated against in violation of this section shall be entitled to (i) reinstatement to his former position and to be made whole for lost compensation and benefits, (ii) compensatory damages, and (iii) where appropriate under the circumstances, exemplary damages.

(d) Suits to enforce the provisions of this section may be brought in the United States district court in the district in which the employer owns or leases facilities or in the United States district court in the district within which the employee has been discriminated against or has received notice of discharge. No suit may be instituted to enforce such provisions more than six months after written notice of discharge is received by the employee concerned, or more than six months after the discriminatory practices have been discontinued, whichever is later.

(e) Whenever an order is issued under this section,

Digitized by Google

the court at the request of the complainant, may assess against the person committing the violation a sum equal to the aggregate amount of all costs and expenses, including attorney's fees, reasonably incurred by the complainant for, or in connection with, the institution and prosecution of such proceedings.

STATE ENFORCEMENT

SEC. 13. (a) (1) Any State agreeing to adopt, and to assume responsibility for enforcing, the standards, requirements, and regulations issued under section 7 of this Act shall submit a plan which shall be approved by the Secretary if, in his judgment, the plan is adequate to promote the objectives of this Act, and the plan—

(i) designates a State agency responsible for administering the plan through the State;

(ii) provides a right of entry and inspection comparable to the Secretary's right under section 8 (b) of this Act;

(iii) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules and regulations;

(iv) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules and regulations;

Digitized by Google

(v) requires employers, owners, and lessees of commercial motor vehicles to make all reports pursuant to this Act to the Secretary; and

(vi) provides that such State agency will adopt uniform reporting requirements and use uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secretary.

(2) If the Secretary rejects a plan submitted under the foregoing paragraph, he shall provide the State a written explanation of his action and shall permit the State to modify and resubmit its proposed plan for approval.

(b) The Secretary shall, on the basis of reports submitted by the State agency, and on his own inspections, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed, or that it has become inadequate to assure the enforcement of rules and regulations issued under this Act, he shall notify the State of his withdrawal of his approval of such plan and upon receipt of such notice, such plan shall cease to be in effect. The State may, however, retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues

Digitized by Google

involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(c) There is hereby authorized to be appropriated out of the Highway Trust Fund a sum not to exceed $100,000,000 for the fiscal year beginning October 1, 1979, and each fiscal year thereafter, to provide incentive assistance to States to develop and institute enforcement plans under this section. No State shall receive under this section during any fiscal year grants exceeding 80 per centum of the cost during such year of developing and implementing its plan. The Secretary is authorized to allocate amounts appropriated under this subsection pursuant to an equitable formula to those States administering plans under this section.

SAFETY REPORTS

SEC. 14. The Secretary shall make a comprehensive written report to the Congress by July 1 of each year concerning his efforts during the preceding calendar year, and his current plans to increase motor vehicle and driver safety. The report shall include, but not be limited to, an evaluation of the Department of Transportation's commercial motor vehicle safety program, an outlining of problem areas and appropriate steps to alleviate them, and any recommendations for closer coordination and cooperation

Digitized by Google

among agencies of the Federal Government and between the Federal Government and the States to enforce the standards, requirements, and regulations issued pursuant to this Act.

SEC. 15. Section 304(a) of the Independent Safety Board Act of 1974 is amended by striking "and" at the end of clause (8), striking the period at the end of clause (9), and inserting in lieu thereof a semicolon and the word "and" and inserting after such clause (9) the following:

"(10) review or appeal in accordance with section 10 of the Truck Safety Act of 1978 an order issued by the Secretary of Transportation under section 7 of such Act.".

SEC. 16. Nothing in this Act shall be construed to amend or modify the National Labor Relations Act or the Railway Labor Act.

SEC. 17. Nothing in this Act shall diminish the existing functions, powers, and duties of the Interstate Commerce Commission which shall consider the public safety and a carrier's record of compliance with safety regulations as a principal criteria in determining whether to confer operating authority upon motor carriers pursuant to part II of the Interstate Commerce Act (49 U.S.C. 301, et seq.).

SEC. 18. Nothing in this Act shall prevent any State

Digitized by Google

agency or court from asserting jurisdiction under State law over any safety or health issue involving commercial motor vehicles with respect to which standard, rule, or regulation the Secretary has not addressed under this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 19. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

EFFECTIVE DATE

SEC. 20. (a) Except as provided in this section, the provisions of this Act shall take effect immediately on the date of enactment.

(b) The Secretary shall, by regulation promulgated pursuant to section 553 of title 5, United States Code, take all steps necessary to bring all orders, determinations, rules and regulations into conformity with the purposes and requirements of this Act as soon as practicable.

(c) All orders, determinations, rules, and regulations issued under section 204(a) (1), (2), (3), (3a), (5) of the Department of Transportation Act shall be continued under this Act until such time as they may be modified by the Secretary.

(d) Judicial proceedings pending upon the date of enactment of this Act shall not be affected by the provisions of this Act.

Digitized by Google

NATIONAL TRANSPORTATION SAFETY BOARD,
Washington, D.C., July 17, 1978.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of May 12, 1978, which requested our comments on S. 2970, a bill, "To promote commercial motor vehicle safety, to prevent injury to commercial motor vehicle operators, and for other purposes."

The purpose of this bill is to provide enforcement of motor carrier safety regulations by authorizing the Secretary to issue citations and assess civil penalties against motor carriers who violate safety regulations; to encourage employees of motor carriers to relate carrier violations to the Secretary by providing statutory and judicial protection of such employees against adverse actions by their employers; and to provide for an appeal to the National Transportation Safety Board of any civil penalty imposed by the Secretary.

Two distinct aspects of enforcing motor carrier safety regulations are contained in this bill. The first involves violation detection. The second pertains to the need for an administrative method to take civil penalty action against violators.

With respect to violation detection, the Department of Transportation is limited by the small number of Bureau of Motor Carrier Inspectors (133 inspectors for 3½ million trucks and 4 million motor carrier employees), and the use of judicial process as the only means of imposing penalties on violators of motor carrier safety regulations. Thus, the Board shares the Congressional concern about the present enforcement authority and capability of the Department of Transportation and believes that motor carrier safety regulations issued in the public interest are of minimal consequence unless violations can be detected and prompt and effective penalties can be invoked. A more effective system appears necessary. Relying on employees' allegations, however, could pose problems. Inherent in any system relying upon employee revelations is the potential problem of irresponsible allegations which could overload the system and make it unworkable. In any event, it may be necessary to increase the number of inspection personnel.

With respect to the need for an administrative method to take civil penalty action against violators, the Board believes the system proposed in the bill has merit. The appellate review provisions of the bill will safeguard carriers against arbitrary or capricious use of the civil penalties. The Board is not now involved in a hearing process similar to that proposed by S. 2970, and has no current authority to hear and decide cases involving civil penalties. We do, however, hear on appeal cases involving suspensions or revocation of certificates issued by the Federal Aviation Administration and revocation of licenses and papers issued by the U.S. Coast Guard, and would have no objection to being the appeal agency for motor carrier violation penalties in the manner set forth in the bill, provided we receive increased funding for the personnel required to accomplish such hearings. The present staffing of the Safety Board, while marginally adequate for its current responsibilities, will be inadequate if the additional responsibility proposed in S. 2970 is given to the Safety Board.

The Safety Board appreciates the opportunity to present its views on this bill.

Sincerely,

JAMES B. KING,
Chairman.

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., August 11, 1978.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN CANNON: Thank you for this opportunity to comment on S. 2970, the "Truck Safety Act of 1978."

Initially, I would note that this legislation is principally directed toward the Secretary of Transportation. I should say, however, that while the Interstate Com rce Commission is no longer responsible for the promulgation or enforce- f safety regulations, we are still vitally concerned with safety on our highways.

Digitized by Google

We favor the proposed legislation and are pleased that section 17 of the bill provides that nothing in the proposed Act shall diminish the existing functions, powers, and duties of the I.C.C. This language appears to give adequate assurances that this Commission will continue to be empowered to consider safety in the motor carrier licensing process.

It is our understanding that it is contemplated by this section that a carrier's safety compliance record shall be considered by the Commission as a "principal" criterion in determining whether to grant operating authority whenever that record is in issue. Under existing law and procedures, safety is one of a number of important factors which are involved in the licensing process.

The Commission welcomes input from all participants in our licensing proceedings regarding the fitness of a particular applicant to fulfill the responsibilities of a common carrier. Recognizing the importance of safety to the public, the Commission has encouraged participation by the Department of Transportation in proceedings where safety is at issue. We will continue to welcome comments from the Department on carrier safety compliance, in order to make fully informed and complete judgments on operating rights applications.

If I may be of any further assistance, please contact me.

Sincerely yours,

A. DANIEL O'NEAL, *Chairman.*

Commissioner Stafford was absent and did not participate.

OFFICE OF THE SECRETARY OF TRANSPORTATION,
Washington, D.C., September 6, 1978.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department concerning S. 2970, a bill: "To promote commercial motor vehicle safety, to prevent injury to commercial motor vehicle operators, and for other purposes."

The safety of transportation operations is of paramount concern to this Department, and we support the intent of S. 2970 to strengthen Federal safety regulation of commercial vehicles. We do, however, have reservations about certain provisions of the bill and also would propose some technical amendments to assure that the bill will achieve its intended objectives.

The subject matter of the bill is commercial motor vehicle safety. As commercial motor vehicles include buses as well as trucks, we would recommend that the name of the act be changed to the "Truck and Bus Safety Act of 1978."

Section 5 makes the bill applicable to commercial vehicles over 10,000 pounds GVWR (gross vehicle weight rating). We believe that it should also apply to vehicles under 10,000 pounds GVWR that are used to transport hazardous materials or passengers for hire. This amendment would make S. 2970 conform with regulatory practice under current law.

Section 5 should also be amended so that S. 2970 covers the same categories of persons as now are subject to our jurisdiction under the Interstate Commerce Act (ICA). Under the ICA, DOT has jurisdiction over the qualifications and maximum hours of service of employees of motor carriers when their work activity affects safety of operations in interstate commerce. Included within this coverage are persons such as mechanics, loaders, drivers' helpers and any other employees when their work activity affects the safety of operations. The change we recommend would be consistent with section 7(a)(1) of the bill which requires the Secretary to ensure that motor vehicles are maintained to assure their safe operation. In order to assure overall safety of operations, including maintenance, regulatory authority should extend to all employees when their activities affect safety of operations rather than just to persons who operate motor vehicles.

Section 7(b) would require the Secretary of Transportation to issue regulations concerning the healthfulness of motor carrier employees' working conditions. The Bureau of Motor Carrier Safety, within this Department, already has authority to regulate in the area of health and safety for those employees when their duties affect safety of operations. The Bureau has instituted rulemaking to define clearly the health and safety matters it will regulate and enforce. We believe that this approach to delineating the responsibilities of the Bureau in this important area is preferable to the approach in S. 2970, since it

Digitized by Google

enables DOT and other interested Federal agencies to develop the most effective and efficient overall system for assuring employees' health and safety. We recommend, therefore, that section 7(b) be deleted.

We recommend that section 8(a) be changed to make it mandatory rather than discretionary for the Secretary to require maintenance of records. The keeping of records is the only way to ensure compliance with the purposes of the legislation. However, to keep the recordkeeping and reporting burden on employers to a minimum and to maintain the reliability of national statistics on occupational injuries and illnesses, it would be DOT's intent under this legislation to utilize existing recordkeeping and reporting programs where available and to the extent practicable. We also recommend that, in the first sentence of section 8(a), "hours of service and work" be added to the list of purposes for which records were kept. This would help emphasize the importance of preventing the operation of motor vehicles by tired drivers.

As a technical matter, lines 13, 16 and 19 of section 8(a) refer to "any such regulation," "such hazards" and "such exposure". As written, it is not clear what is being referenced. The lines should refer to a "regulation of the Secretary under this Act," "a hazard or hazards" and "exposure to such hazard or hazards."

Section 9 should be amended to provide a procedure for the issuance of compliance orders. The compliance order has proven to be an effective tool for improving safety under both the ICA and the Hazardous Materials Transportation Act.

The Department strongly supports the establishment of civil penalties, to be imposed by the Secretary of Transportation, for violation of motor carrier safety regulations. Dependence on criminal penalties, as under current law, does not provide sufficient flexibility for an effective enforcement program. We view this as a very important change and one which is long overdue. We would like to see the legislation clarified, however, so that the citation procedure would be in accord with our current practice of issuing citations only on the basis of a supervisor's review of an investigator's inspection report. We find that this procedure is best suited for dealing effectively with alleged violations of safety regulations. We also believe that, rather than involving the National Transportation Safety Board in the appeals process, Section 10 of the legislation should provide for a review procedure within the agency, utilizing administrative law judges and following the requirements of the Administrative Procedure Act. This approach provides guarantees of due process while also facilitating efficient administration of the program.

We also support the protection of employees provided by Section 12 of the bill against retaliatory firing or other discrimination based on their having filed complaints about or refusing to work under unsafe conditions. These basic rights of employees should be fully protected. We would recommend, however, that this protection provide for investigation and administrative enforcement action by the Secretary of Labor, as is the case under many other statutes. The private right of action proposed in S. 2970 should be retained as an alternative course of action—an employee would elect one procedure or the other.

Section 13 of S. 2970 would establish a Federal program of assistance to States which file a plan acceptable to the Secretary of Transportation for State enforcement of Federal regulations. We are not able to endorse this provision at this time. We are planning to initiate a demonstration project in this area during the coming year. The results of that effort should be evaluated before a new Federal assistance program is established.

We note our understanding that in amending section 5 of the bill to make jurisdiction under this Act co-extensive with our jurisdiction under the Interstate Commerce Act, this legislation will in no way affect the continued exemption of employees regulated by DOT with respect to maximum hours from the provisions of the Fair Labor Standards Act, pursuant to section 13(b)(1) of that Act.

Finally, we would suggest that an additional section be added to the bill reading as follows: "Nothing in this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health."

This would clarify that the responsibilities of the Department of Labor would not be affected by this bill.

If S. 2970 were amended as described above, the Department of Transportation would support its enactment.

Digitized by Google

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is not any objection to the submission of this report for the consideration of the Committee.

Sincerely,

LINDA HELLER KAMM.

The CHAIRMAN. In light of the number of witnesses that are scheduled to testify, I hope that all witnesses will summarize their oral statements, as their written statements will be printed in the record in full. If the witnesses will summarize, this will allow for more detailed questioning by the committee.

Due to an unavoidable conflict, Senator Percy will not be able to appear this morning. However, he has sent a letter reiterating his support for S. 2970 and submitted a statement that will be made a part of the record in full.

[The statement follows:]

U.S. SENATE,
Washington, D.C., September 6, 1978.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of myself, and Senator Kennedy, I want to express our gratitude to you for convening Friday's session on the Truck Safety Act legislation (S. 2970) which we have introduced. As I earlier indicated might be the case, I am forced because of a prior commitment to be out of town on Friday. However, in view of the importance of this subject, I would ask your indulgence in introducing into the record of Friday's proceedings testimony which I have prepared concerning this measure.

On my return to Washington, I will be pleased to respond to any questions you may have regarding either my testimony or the legislation itself. I look forward to working directly with you, and with other members of the Commerce Committee, in trying to expeditiously advance this vital legislation.

Warmest personal regards.

CHARLES H. PERCY,
U.S. Senator.

Enclosure.

STATEMENT OF HON. CHARLES H. PERCY, U.S. SENATOR FROM ILLINOIS

Mr. Chairman, I am grateful to you for your expeditious action in convening today's hearing, and I appreciate this opportunity to submit testimony to the Senate Commerce Committee concerning the Truck Safety Act of 1978. I introduced this legislation on April 20, 1978, together with my distinguished colleague Senator Kennedy. The purpose of this measure is to provide much-needed improvements in the Nation's truck safety programs.

At the outset, let me share with you information I received just yesterday from the Federal Highway Administration's Bureau of Motor Carrier Safety. Last month, BMCS investigators, assisted by the Pennsylvania State Police, conducted one of the largest and most concentrated safety checks on commercial interstate drivers and vehicles. The results of this test—conducted in Berwick, Pa., during the period August 7–11, were startling:

Of the 676 total number of inspections during this one-week period, 352 or 52 percent of the vehicles were placed out of service. The inspectors found 2,743 total violations, 567 of which were so flagrant that the vehicles were placed out of service. They were not permitted to be moved until repairs were completed. The major category of out-of-service vehicle defects were *faulty brakes*, accounting for a whopping 60 percent of such violations; in 65 cases, the brakes were either missing or inoperative. Other major problem areas were: faulty lights and suspension, and defective tires and exhaust systems.

Not only were the trucks in violtaion of safety regulations, but some 271 of the drivers were violating hours-of-service rules. A total of 25, or 3 percent, of these drivers were taken out of service for undue extentions of their hours of service. And 56 of the drivers did not meet the driver qualification standards.

Digitized by Google

The reports were analyzed and broken down into three main groups of carriers: (1) those authorized by the Interstate Commerce Commission, which made up 70 percent, consisting of 214 leased operators and 259 company operators; (2) private carriers, which made up 28 percent; and (3) carriers of exempt commodities, which made up 2 percent.

Violations were spread throughout all three groups. Of those vehicles authorized by the ICC for hire, 55 percent were put out of service, while 15 of the drivers were barred. Of the private carriers, 50 percent of the trucks and 8 drivers were taken out of service. And of those trucks carrying exempt commodities, 63 percent were found imminently hazardous and 2 of the drivers were grounded. (The entire report is attached to my testimony.)

Most significantly, an informed source at the Bureau of Motor Carrier Safety told my staff that these Berwick, Pa., figures are "not a fluke." "The number of vehicles that have to be placed out of service due to severe safety violations has increased sharply over the past year and is a problem all over the country," the BMCS official noted. He attributed the rise to fewer federal inspections in recent years, and to economic pressures on individual carriers caused by high inflation.

Legislation to enhance the effectiveness of truck safety has been introduced in the last three Congresses. These safety inspection findings, just released by the Department of Transportation, point out that we cannot afford to wait much longer. Without remedial legislation, the situation on this Nation's highways is steadily worsening.

The American public is increasingly disturbed over inadequate truck safety. The news media are helping citizens to be better informed about this serious problem, with in-depth reports by William Gaines, Frederick Lowe, and Howard A. Tyner of the Chicago Tribune; Edward O'Brien and Art Kaufman of the St. Louis Globe-Democrat; Brian Ross of NBC Television Nightly News; Robert Sherrill writing in the New York Times Magazine and Reader's Digest, and so many others.

Last year, 6,614 Americans died in truck accidents. That is nearly a 21 percent increase in the 2-year period since 1975. In a collision with a heavy truck, a car rider has only a 43 percent chance of living; a motorcycle rider has an even more dismal 15 percent chance of surviving the accident.

These figures mean that truck accidents kill, on the average, one American every 80 minutes. Some Americans used to be afraid to fly in airplanes; now many are understandably afraid to drive to the airport.

Many drivers go out of their way to point out unsafe conditions when authorities inspect their trucks. The drivers want and deserve safe vehicles. But a few truck companies—an unscrupulous minority—ignore their drivers' warnings and send these death-traps-on-wheels out on the road anyway. Likewise, a few reckless truck drivers seem perfectly willing to violate even basic safety standards. It's time we got them off the road. Federal and State vehicle safety programs must be improved to prevent such drivers from posing a danger to both the general public and other truckers.

The Chicago Tribune and the St. Louis Globe-Democrat, in exceptionally well-investigated task force reports completed over the past 18 months, helped to pinpoint the problem areas with respect to safety enforcement problems that this bill is intended to correct. These investigations indicated several inadequacies in federal truck safety regulations that severely limit the effectiveness of enforcement efforts. This is perhaps most clearly demonstrated in the civil fine procedure. Currently, the use of civil fines can only be directed at the failure of truckers to properly maintain a daily log. Civil fines are not applicable to any other violation of safety regulations, such as the failure to keep brakes in good repair or the use of poorly adjusted ventilation systems. In these cases, the BMCS can only bring formal criminal prosecution in court or initiate an administrative hearing.

This has proved to be a time-consuming and difficult process. For instance, in 1973, the latest year for which data are available, BMCS detected over 40,000 safety violations during nationwide road checks of 22,644 vehicles and drivers. Yet during all of 1973 and 1974, Bureau investigators were able to develop only 1,027 cases warranting court or administrative action. The majority of these cases were not accepted by the Department of Justice for criminal prosecution.

The effectiveness of the Bureau's safety program could be greatly enhanced by expanding civil forfeiture authority to include all types of substantial violations of safety regulations.

Digitized by Google

Moreover, the maximum amount for fines for safety violations has not been revised since 1957. They are now seriously out of line with fines for violation of other Federal regulations. Low penalties, coupled with the lengthy process of criminal enforcement, do little to discourage future violations. It is imperative that we raise these fines and set realistic time limits for the prosecution of cases and processing of fines.

Another factor working against greater safety is that the Interstate Commerce Act provides no restraints upon employers for possible reprisals against employees who report safety violations. There have been many instances where drivers have been fired for refusing to operate vehicles in violation of Federal truck safety laws. The unfortunate result has been to dissuade employees from directing Government officials to what are at times flagrant abuses of safety regulations. As a result, the Government has lost a prime ally in its effort to protect truckers and the public.

Through the years, Congress has enacted legislation that makes it unlawful for an employer to discriminate or discharge employees for seeking enforcement of legislation or for cooperating with the Government. One of these laws, the Occupational Safety and Health Act, protects nearly every worker in America except those of the trucking industry. It was not applied to truckers because, it was argued, the Department of Transportation already had authority to regulate trucking industry safety practices. As a result, drivers were denied the OSHA protections against employer recrimination for their attempts to secure safe working conditions.

In other areas, the BMCS has only 133 inspectors for some 5 million trucks on the road today. Obviously safety depends, therefore, on the effective operation on motor carrier safety programs by individual States. The States are in the best position to detect and prevent safety violations due to their greater personnel and resources. Yet, the 1977 GAO report found that:

"Since the Federal motor carrier safety program does not provide funding to the states, no effective incentive to promote increased cooperation from the states exist."

If States were given an incentive—for example, reimbursement for a percentage of the cost of operating adequate truck safety programs—much could be done to prevent speeding, tailgating, and the overloading of trucks. With this incentive, States could operate both more permanent and portable scales to prevent loads which make vehicles dangerous to drive, and which destroy our roadways. Increased enforcement personnel on the roads would not only slow trucks down, but automobiles as well. If the 55 mph speed limit were adhered to, traffic fatalities would drop greatly.

S. 2970 builds upon and focuses the general authority given the Department of Transportation to regulate safety. It directs the DOT's safety function toward those areas which have caused the most serious safety problems in the ten-year period since DOT was created. It's provisions would greatly enhance the effectiveness and efficiency of DOT in ensuring truck safety. Specifically the bill:

Expands the scope of violations for which civil fines may be imposed, and raises the maximum fine from $500 to $2,500 for each substantial violation and $10.000 for extremely serious safety violations.

Enlarges the scope of Federal safety regulation by including any truck over 10,000 pounds gross vehicle weight rating in interstate commerce (interstate trucks) and affecting interstate commerce (intrastate trucks).

Authorizes the Secretary of Transportation to regulate the working conditions and operating practices of employees, to ensure that trucks are so maintained as to prevent accidents, and to conduct research into new enforcement techniques and training programs.

Authorizes the Secretary to arrange to conduct on-the-job inspections and investigations.

Gives trucking employees the right to require DOT investigations of violations of safety regulations.

Requires the DOT to serve citations upon alleged violators of safety laws who are then given 15 days to notify DOT of their intent to contest the citation.

Authorizes an administrative adjudicatory hearing before the National Transportation Safety Board in cases of contested citations.

Provides for judicial review and enforcement of NTSB decisions and orders.

Digitized by Google

Protects trucking employees from discharge or discrimination for their attempts to promote greater trucking safety.

Authorizes DOT to establish penalty schedules designed to induce timely compliance with the law.

Authorizes funds to be appropriated from the highway trust fund for the purpose of offering financial incentives to States to implement truck safety programs which have been approved by the Secretary.

Requires the Secretary to submit a yearly report to Congress outlining his progress in increasing truck safety on the Nation's highways.

Though heavy trucks account for less than 1 percent of all motor vehicles on the road, they are responsible for over 9 percent of all traffic fatalities. This situation will not improve by itself. The number of trucks and buses on the roads is expected to double in the next 15 years. Highways should not be deathtraps—they were constructed for the safe, enjoyable use by all Americans. The proposed legislation is essential to protect the driving public, and the consumers and businesses of this nation.

Truck accidents not only hurt consumers by increasing the costs of transporting goods. They also hurt businesses. Companies have been forced to close down as a result of high jury awards stemming from truck accidents. A major bakery in California was recently subject to a $2 million judgment resulting from a single truck accident. The firm was forced out of business leaving over 100 workers jobless.

This measure S. 2970, would establish a truly effective truck safety program. At the same time, it would reduce the load on our already over-burdened courts by encouraging compliance. By requiring uniform reporting procedures, it should also substantially reduce paperwork burdens.

In designing the legislation, Senator Kennedy and I have worked closely with the various elements of the truck industry. The International Brotherhood of Teamsters, the Professional Drivers Council, and the American Trucking Associations have assisted us greatly. Their diligence and shared interest in public safety has been inspiring. As a result of this cooperation, the Truck Safety Act of 1978 strikes a delicate balance between the concerns of both labor and industry.

I might add at this point that I am aware of some of the points of concern that the American Trucking Associations will address today. My staff recently had an opportunity to sit down with the distinguished members of their SCORE Committee who are acutely concerned with safety matters and who will pass on their recommendations to the ATA Executive Committee. I am confident, based upon the discussions that have already taken place, that we can accommodate a large number of the legitimate concerns that have been articulated, after careful study and review, by the representatives of the ATA. I want to commend that organization on the attention it has accorded to this important legislation.

As for the Teamsters and the Professional Drivers Council, both groups have been invaluable in supplying my staff and me with much-needed information and advice concerning this bill. They have helped to identify many safety problems and the special precautions needed to protect truckers who are rightly concerned about the safety of their vehicles. Out of the combined efforts of both these groups, this legislation has been significantly improved.

I am also interested in receiving the views of the Independent Truckers as well as those many other interested groups and individuals which have indicated a desire to be heard on this subject.

Congress must act decisively to alleviate the hazardous situation that now exists. Timely passage of this legislation will mean that the law and related safety regulations are strictly enforced. This was the intent of Congress and this is what all Americans have a right to expect.

DOT Roadside Safety Inspection

(August 7–11, 1978, Berwick, Pa.)

INTRODUCTION

The following report is a statistical analysis of data completed during one of the largest and most concentrated safety checks on commercial interstate drivers and vehicles.

Digitized by Google

The Federal Highway Administration's Bureau of Motor Carrier Safety Investigators from the Northeastern States conducted complete inspections on 676 operational vehicles on the roadside near Berwick, Pa. These inspections were performed on both sides of the highway during the hours of 5:30 a.m. and 8:30 p.m.

The Bureau of Motor Carrier Safety (BMCS) was assisted by the Pennsylvania State Police, who were responsible for stopping the vehicles on the highway. Prior to a complete inspection by the BMCS safety investigators, most of the vehicles were given a quick visual and audible check to determine if the vehicle contained possible safety deficiencies. This selection procedure is used in order to receive maximum benefit from the Bureau's limited field staff. Other vehicles were given a complete inspection without this preliminary quick visual and audible check.

Vehicles found to be in imminently hazardous conditions were placed out of service and could not be moved until repairs were completed.

Similar roadside inspections will be conducted at other locations on a continuing basis.

Summary of key findings

Total number of inspections	676
Total number of vehicles placed out-of-service (O/S) (52%)	352
Total number of drivers placed out-of-service (O/S)	25

Total violations

Total number of violations	2,743
Total number of out-of-service violations	567

Total vehicles inspected,[1] vehicles and drivers placed out-of-service, violations per carrier type and average number of violations per vehicle

Authorized for-hire:	
Total (70%)	473
Total O/S (55%)	248
Total drivers O/S	15
Total violations	1,783
Average number violations per vehicle	3.7
Private:	
Total (28%)	187
Total O/S (50%)	94
Total drivers O/S	8
Total violations	878
Average number violations per vehicle	4.6
Exempt:	
Total (2%)	16
Total O/S (63%)	10
Total drivers O/S	2
Total violations	82
Average number violations per vehicle	5.1

Major categories of out-of-service vehicle defects

Brakes	340	Exhaust	40
Lights	44	Wheels, rims	11
Suspension	30	Others	62
Tires	40		

Driver violations

Total number of hours of service violations	271
Total number of O/S hours of service violations	25
Total number of driver qualification violations	56

[1] The total vehicles inspected during this 5-day roadside inspection are not necessarily indicative of the actual motor carrier population per carrier type (authorized-for hire, private and exempt).

35-692—78——3

Digitized by Google

TOTAL NUMBER OF VEHICLES AND DRIVERS OUT-OF-SERVICE

Type of Carrier	Total number of vehicles				Total number of drivers out-of-service
	Inspected		Out-of-service		
	Number	Percent	Number	Percent	
Authorized for hire	473	70	248	55	15
Owned	259		127		5
Leased	214		121		10
Private	187	28	94	50	8
Exempt	16	2	10	63	2
Total	676		352		25

Out of the 676 total inspections during the 1-week period, 352 (52 percent) of the vehicles were placed out-of-service and 25 (3 percent) of the drivers were placed out-of-service.

The reports were analyzed and broken down into three main groups of carriers: (1) those authorized by the Interstate Commerce Commission (ICC), which made up 70 percent (2) private carriers, which made up 28 percent; and (3) carriers of exempt commodities which made up 2 percent. Of those authorized by the ICC, 214 were leased operators and 259 were company operators.

MAJOR OUT-OF-SERVICE VEHICLE DEFECTS

Defect	Authorized for hire			Private	Exempt
	Owned	Leased	Total		
Brakes:					
1. Missing or inoperative	25	22	47	15	3
2. Brake linings/pads	3		3		
3. Drums or discs		1	1	2	
4. Hoses:					
(a) Worn, chaffed, cut	25	31	56	15	1
(b) Crimped, leaking, broken	13	12	25	18	
5. Leaking brake chamber	21	16	37	15	
6. Air tank reservoir	11	7	18	11	
7. Air loss	9	4	13	3	
8. Low air pressure warning device	12	19	31	18	2
9. Brakes did not hold 5 min				1	
10. Inoperative parking brake	1		1	1	
11. Other	1	1	2	1	
Lights:					
1. Headlamps					
2. Stop lamps	10	16	26	14	2
3. No lights at all				1	
4. Other		1	1		
Tires:					
1. Tread depth 2/32					
2. Tread depth 1/64				3	
3. Tread depth		4	4		
4. Flat		5	5	3	
5. Cut, owrn, exposed fabric	6	8	14	5	
6. Other	2	3	5		1
Suspension:					
1. Broken leafs, U-bolts	11	10	21	8	
2. Air suspension leaks					
3. Other					1
Exhaust:					
1. Leaks	15	15	30	8	1
2. Other		1	1		
Wheels, Rims:					
1. Cracked wheels, rims, discs	2	1	3	2	
2. Missing bolts/nuts	2	4	6		
3. Other					

Digitized by Google

DRIVER HOURS OF SERVICE VIOLATIONS

Type of carrier	Violations	Out-of-service
Authorized for hire	153	15
Owned	63	5
Leased	90	10
Private	106	8
Exempt	12	2
Total	271	25

Driver qualification violations

Type of carrier:	*Violations*
Authorized for-hire	19
Owned	7
Leased	12
Private	36
Exempt	1
Total	56

AUTHORIZED FOR HIRE CARRIERS = 473 (70 PERCENT)

Type	Total number of vehicles	Total number violations	Total number violations O/S	Total number drivers O/S
Owned	259	846	191	5
Leased	214	937	213	10
Total	473	1,783	404	15

VIOLATIONS/OUT OF SERVICE

Part No.	Description	Owned	Out of service	Leased	Out of service	Total	Total out of service
391	Medical certificate	7	0	12	0	19	0
392	Driver actions	21	0	23	0	44	0
393	Lighting	242	10	267	17	509	27
	Brakes	260	121	241	113	501	234
	Fuel systems	9	3	6	6	15	9
	Tires	27	8	62	20	89	28
396	Suspension	36	11	24	10	60	21
	Steering	10	2	6	2	16	4
	Wheels	15	4	11	5	26	9
	Exhaust	15	15	24	16	14	31
395	Maximum driving and on-duty time.	13	5	16	10	29	15
	Daily logs	50	0	74	0	124	0
Hazardous materials		13	1	11	0	24	1

Digitized by Google

Private carriers = 187 (28%)

Total number of violations 878
Total number of violations O/S 149
Total number of drivers O/S 8

VIOLATIONS/OUT OF SERVICE

Part No.	Description	Total violations	Total out of service
391	Medical certificates	36	0
	Minimum age	3	0
392	Driver actions	17	0
393	Lighting	269	15
	Brakes	223	100
	Fuel systems	2	2
	Tires	36	11
396	Suspension	22	8
	Steering	5	0
	Wheels	9	2
	Exhaust	9	8
395	Maximum driving and on-duty time.	20	8
	Daily logs	86	0
Hazardous materials		7	0

Exempt carriers = 16 (2%)

Total number of violations 82
Total number of violations O/S 16
Total number of drivers O/S 2

VIOLATIONS/OUT OF SERVICE

Part No.	Description	Total violations	Total out of service
391	Medical certificates	1	0
	Minimum age	1	0
392	Driver actions	2	0
393	Lighting	25	2
	Brakes	15	6
	Fuel systems	0	0
	Tires	6	1
396	Suspension	2	1
	Steering	0	0
	Exhaust	1	1
	Wheels	1	0
395	Maximum driving and on-duty time	2	2
	Daily logs	10	0
Hazardous materials		0	0

An attempt was made to determine the number of owner-operators or independents and their experience during this roadside inspection. The chart on the following page summarizes the experience of those reports that were determined probable owner-operators. An owner-operator or independent is a person who owns a vehicle or vehicles (tractor and/or trailer) and drives it himself, transporting exempt commodities or operating under contract or lease to a certified or permitted carrier. (It should be understood that an owner-operator can simultaneously be a "fleet lessor" if he leases other vehicles, owned by him, to the same or another motor carrier.)

Digitized by Google

Probable owner-operators equals 169

Total number of violations	753
Total number of violations O/S	169
Total number of vehicles O/S (56 percent)	95
Total number of drivers O/S (5 percent)	8

VIOLATIONS/OUT OF SERVICE

Part No.	Description	Total violations	Total O.S
391	Medical certificates	6	0
	Minimum age	1	0
392	Driver actions	16	0
393	Lighting	229	24
	Brakes	194	89
	Fuel systems	1	0
	Tires	51	18
396	Suspension	25	9
	Steering	4	3
	Exhaust	9	4
	Wheels	17	4
395	Maximum driving and on-duty time	11	8
	Daily logs	61	0
Hazardous materials		11	1

The CHAIRMAN. Our first witness will be Mr. John S. Hassell, Jr., Deputy Administrator of the Federal Highway Administration (FHWA), accompanied by Howard Anderson, Associate Administrator for Safety of FHWA, and Dr. Robert Kaye, Director of Bureau of Motor Carrier Safety.

Gentlemen?

STATEMENT OF JOHN S. HASSELL, JR., DEPUTY ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION; ACCOMPANIED BY HOWARD ANDERSON, ASSOCIATE ADMINISTRATOR FOR SAFETY; ROBERT A. KAYE, DIRECTOR, BUREAU OF MOTOR CARRIER SAFETY; AND GEORGE PARKER, CHIEF, CRASH AVOIDANCE DIVISION, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Mr. HASSELL. Thank you, Mr. Chairman.

I am pleased to appear before you today to discuss the administration's concern with truck safety, and to detail some of the action we're taking to meet this issue.

In line with your request, we will submit a prepared statement for the record, and I will summarize some of the high points of the statement.

We will also discuss S. 2970, which we believe to be an important proposal to increase commercial vehicle safety.

Digitized by Google

Accompanying me today are Mr. Howard Anderson, Associate Administrator for Safety of the FHWA; Dr. Robert Kaye, Director of Motor Carrier Safety; and Mr. George Parker, Chief of the Crash Avoidance Division of the National Highway Traffic Safety Administration (NHTSA).

The Federal Government has the responsibility for safeguarding the motoring public from unreasonable risk from persons or firms that utilize the public highways in furtherance of business enterprises. This responsibility is shared by State governments.

Our approach to this statutory function involves several statutes and departmental programs.

Federal highway statutes require that safety be built into the highway physical plant. The Highway Safety Act of 1966 provides financial assistance to States to enable them to upgrade their highway safety programs. These safety programs are designed to regulate motor vehicle registration, driver training and licensing, police services, and other aspects of highway operations and control.

Under the safety provisions of part 2 of the Interstate Commerce Act, the hours of service and qualifications of commercial vehicle drivers, the safety of operations, and equipment standards for trucks and buses engaged in interstate or foreign commerce are directly regulated by the DOT.

Under the latter statute, the FHA's Bureau of Motor Carrier Safety and its predecessor's at the Interstate Commerce Commission (ICC) have promulgated and enforced the Federal Motor Carrier Safety Regulations for more than 40 years through field inspections, audits, enforcement investigations, and civil and criminal prosecutions.

The Federal Motor Carrier Safety Regulations apply to more than 150,000 business entities that operate some 3 million trucks and buses, utilizing between 3.5 and 4 million drivers in interstate or foreign commerce.

Generally, the rules apply to operations utilizing vehicles with more than four tires on the pavement and with a gross vehicle rating of 10,000 pounds or more.

The ICA does not apply to commercial vehicles in intrastate commerce, transportation of schoolchildren, recreational vehicles, and local farm vehicles.

Our estimates are that something on the order of 50 percent of the commercial vehicles on the road are not covered by the statute. These are primarily dump trucks, service vehicles, tow trucks, local cartage vehicles, transit buses, Government-owned vehicles, and personal transportation vehicles.

Over the last four decades, the program has relied to a large degree on voluntary compliance, using a spot-check strategy to identify firms that do not comply.

The recent growth in the trucking industry utilization of a highway system that has relatively fixed mileage has increased the number of trucks in the traffic stream. In addition, the national 55-mile-an-hour speed limit, which has caused all vehicles to travel at similar speeds, has made the trucks in the stream more visible to all motorists.

Over the last 2 years we have undertaken special programs to identify carriers, to audit carriers that have not had previous contact with

Digitized by Google

BMLS, to conduct special road checks, to interest States in adopting Federal rules, and to provide training to State enforcement officials.

At this time research is underway in many areas, such as developing automatic weighing systems, analyzing problems relating to truck ride quality, investigating highway operation of heavy trucks, studying many of the other highway safety involved issues involving all vehicles, including trucks.

In addition, Congress has enacted for the next fiscal year a demonstration program to test the value of utilizing State enforcement officers in several States to provide assistance in the enforcement of motor vehicle safety regulations. Hopefully, this will allow us to determine the value of an alternative to a large Federal enforcement force of inspectors and investigators to meet the rapid growth in trucking.

Specifically, addressing our views on S. 2970, we believe this bill represents a very important legislative initiative. The DOT supports several provisions of this bill which are designed to strengthen Federal safety regulation of commercial vehicles.

In particular, we consider the provisions of the bill which would establish civil penalties in meaningful amounts to be very important and necessary, and we strongly support these provisions.

Criminal penalties require the establishment, to the satisfaction of the court, that the violation was knowingly and willfully committed, thereby frustrating the imposition of penalties in cases where it is extremely difficult to show that the violator knew he was subject to the regulations and that he knew and permitted a particular act of omission to take place. In many venues the cases may be several years old before they are presented to a judge because of heavy caseloads.

The number of counts presented and the level of fines assessed are subject to the subjective judgment of the U.S. attorney and the judge, who may or may not feel strongly about what may be viewed as violations of administrative law concerning a driver's excess hours, a defective vehicle, or a driver's qualifications. The existing criminal penalties can amount to little more than a routine cost of business.

Criminal prosecutions, with minimal fines and processing in crowded court dockets, have not been successful as deterrents to unsafe practices.

Where we have had latitude to use civil penalties we have found them more effective, and we feel that this provision will be particularly successful.

The provision of the bill to assign to the National Transportation Safety Board—NTSB—the function of a review panel is not appropriate. We would prefer review by administrative law judges following the requirements of the Administrative Procedure Act which would provide full due-process guarantees while also facilitating uniformity and effective program administration.

Section 7(b) would require the Secretary of Transportation to issue regulations concerning the healthfulness of the motor carrier employee's working condition. BMCS already has authority to regulate in the area of health and safety for these employees when their duties affect the safety of operation. BMCS has recently instituted rulemaking to more clearly define the health and safety matters that it will regulate and enforce.

Digitized by Google

We believe that this approach to delineating the responsibilties for the Bureau is preferable to the approach in S. 2970.

In section 12 of the bill, we support the provisions provided to protect employees against retaliatory firing or other discrimination based on their having filed complaints. These basic rights of the employees, we feel, should be fully protected.

Section 13 would establish a Federal program of assistance to the States. We suggest that it would be more appropriate to wait until the end of the demonstration program that I previously mentioned before we go into a general program. The demonstration program should determine the need for a Federal assistance program, and what form it should take.

We do not support the provision in section 14 that requires annual submission of reports to Congress.

This administration is currently trying to reduce the number of pro forma reports which are generating so much paperwork within the Government.

Finally, we believe the legislation should be amended to clarify that it will in no way affect the present authority of the Secretary of Labor under the Occupational Safety and Health Act to regulate the working conditions not covered in the bill.

In summary, we believe the modified version of this bill will go a long way in meeting the shortcomings of the present legislation in this area, yet not foreclose options nor commit the Government to an as yet untested financial assistance program. Certainly, the risk and tragic loss of life and property associated with commercial vehicle collisions require urgent attention, and whatever can be done to improve the deterrent capability of the Government to effect reduced risk should be undertaken.

We stand ready to do our part within the law and resources available to us.

This concludes my prepared remarks. My associates and I will be happy to answer any questions you might have. Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Hassell.

To what do you attribute the very marked increase in truck accident deaths?

It was up 25 percent in 1977 over 1975.

Mr. HASSELL. There are several factors involved in that increase, including the increasing number of vehicle miles by the trucks, and other factors.

I think Mr. Anderson may have some more specifics on that, based upon their studies.

The CHAIRMAN. You said the increase in vehicle miles. I'd like to ask if the percentage increase in vehicle miles was as great as the percentage increase in deaths.

Mr. ANDERSON. There was a larger increase in deaths than there was in vehicles on the road and also vehicle miles of travel.

However, at the same time, the speeds of all the vehicles on the roads have gone up in the last 2 or 3 years approximately 5 miles an hour, which certainly has a great effect on it, Senator, and I think this is probably the biggest contributing factor, together with the additional vehicles on our highways.

Digitized by Google

The CHAIRMAN. When you say they went up 5 miles—from what to what?

Mr. ANDERSON. The average speed right after the imposition of the 55-mile-an-hour speed limit was right around 56 miles an hour, 57. It is up to around 59, I think it is now—59 or 60.

The CHAIRMAN. You attribute at least part of that increase in deaths to not obeying the 55-mile-an-hour speed limit.

Mr. ANDERSON. By all vehicles on the highway, not just the trucks.

The CHAIRMAN. Mr. Hassell, you said that the DOT opposes section 13 until the results of that demonstration project are completed.

When do you anticipate the project will be completed?

Mr. HASSELL. We plan to set it up to run initially for 1 or 2 years with two or three States, and it should be underway very shortly—set up and to commence in the coming fiscal year. And we would expect some results at the end of a year.

The CHAIRMAN. So it won't be within a period of 1 year from right now.

Mr. HASSELL. No, sir.

The CHAIRMAN. Now, what mechanisms are now in place at DOT to work with various State entities which work in the truck safety area?

In other words, is there an exchange of information and data on the numbers of violations and inspections, or do the Federal Government and States each go their separate way?

Mr. HASSELL. There is an extensive interchange of information. I wouldn't characterize it, though, as far as we possibly could go. We are working on various ways to improve that exchange of information on drivers and vehicles and their operations.

Do you have anything?

Mr. ANDERSON. We do have cooperative agreements with all the States in the United States of varying degrees. They have adopted our regulations in varying degrees. Some have adopted them in total. In those States where they have adopted them in total, such as in your bordering State of Idaho, we have a very, very close working relationship, not only in the enforcement activities jointly but also in exchange of information. So it varies from total exchange of information to probably down to 50 percent.

Mr. HASSELL. We, the DOT, have recently initiated several activities, such as the fatal accident reporting system, which enables us to more fully exchange information on the causes and the factors involved in fatal accidents with all of the States which are all included in that reporting system.

The CHAIRMAN. Yesterday, as you know, we were considering the issue of possible mandatory truck length and the cramped quarters that many of the drivers have to endure. Yet it was kind of surprising to me that apparently there weren't any statistics available at this time from DOT or anyone else, as to what the basic causes of these accident deaths are.

Don't you go into that and try to fix a cause? Doesn't the NTSB try to fix a cause as to what the cause was?

Mr. HASSELL. DOT investigates many fatal truck accidents, as we're talking about in this case, through BMCS. The results of those, as well as the NTSB's investigation, are used in developing modifications to rules and regulations as part of our system.

Digitized by Google

Unfortunately, the data stream that is coming in has been fairly recently initiated and is only in effect—it's several years old now, and the ability to analyze those and give the kind of quantitative information you were specifically requesting is still in its infancy. We expect to have, though, the ability to do that in the fairly short term, another year of work, because of building the data base necessary.

The CHAIRMAN. In the GAO report that you and I both referred to, foremost among the suggestions was to develop positive financial incentives to encourage State enforcement of motor carrier regulations.

What steps have been taken, if any, to implement the recommendations?

Mr. HASSELL. We are using such things as the Federal funds available for general highway purposes.

Part of the package that the administration submitted this year was to allow the States to utilize their Federal aid highway funds for such things as equipment for weighing stations and other provisions.

We have extensive training programs with all of the States where we participate in training activities and we hope that through this demonstration project we talked about a little bit earlier to even further expand that activity.

The CHAIRMAN. What steps has the Bureau of Motor Carrier Safety taken to modernize the hours of service regulation, to keep pace with changes in the on-road conditions? I'm advised that the hours of service regulations are based on a 30-year-old study by the Public Health Service.

Mr. HASSELL. There is a request for comments out and proposed rulemaking at this time. Mr. Anderson, have you got any further details?

Mr. ANDERSON. We have the proposed rulemaking out at the present time, Senator, and we have presented—it's still in an advanced notice stage—we have presented three alternatives for the industry to consider and comment upon. And we have received a goodly amount of comment. Our hearings are scheduled throughout the country, starting next week. The first ones will be, I think it's New York, isn't it?

The CHAIRMAN. What are the three alternatives? Can you briefly describe them?

Mr. ANDERSON. Do you want to describe them?

Dr. KAYE. There are three plans, Senator, and they're rather complicated. Perhaps it might be well if you want to have a copy of this inserted in the record.

The CHAIRMAN. We'd be glad to have a copy, but why don't you just boil down very briefly for me the basic essence of the three plans, so we know what we're talking about.

Dr. KAYE. In plan 1, we are suggesting 60 hours on 7 consecutive days, with the 36-hour extended rest period. And the duty tour limits would be 12 hours, as opposed to the present 15-hour limit. And then we're suggesting that——

The CHAIRMAN. You're saying that currently a driver can drive 15 consecutive hours?

Dr. KAYE. No, no, Senator. Under our present rule, Senator, the driver can drive 10 hours in a 15-hour on-duty period. If he is on duty 15 hours, he cannot drive, but he must take 8 consecutive hours off. That's our present rule, which came into effect in 1930, approximately.

Digitized by Google

We're also suggesting in plan 1 that there's a driving limitation of 10 hours or 450 miles. And then we're talking about driving relief periods of 30 minutes every 2½ hours to give the driver a break from just constantly driving.

In plan 2, we're talking about the same 60 hours and 7 days, and for 15 consecutive hours, and 11 hours or 500 miles, and 30 minutes off every 3 hours.

And plan 3 deals with what we call a sleeper-berth operation, where the combination of two drivers could be 8 consecutive hours and 30 minutes for each change of duty status, and other specifics.

Basically, what these plans are designed to do is to give the driver more time off than he's now getting under the existing rules, so that the rest element and the fatigue element might be addressed through this proposal. Now, this is only a proposal, and we have a fourth plan, incidentally, Senator, which says, if you don't like these three, what do you suggest would be the plan.

The CHAIRMAN. In this proposed rulemaking, do you go into anything relating to the size of the working space, the cab, the interior cab space?

Dr. KAYE. Not in the hours of service advance notice, no, sir.

The CHAIRMAN. Do you have that in some other procedure?

Dr. KAYE. Yes, we have an advanced notice out. It's called minimum cab space, which was addressed yesterday at the hearing.

The CHAIRMAN. When do you expect that rulemaking process to wind up?

Dr. KAYE. I think Mr. Anderson indicated that we are going to do some research measurements on our own, and hopefully by the end of the year we'll have more information and perhaps be better able to address the questions you asked yesterday and try to come up with something. We're hoping—let me just make an estimate: within 6 or 9 months.

The CHAIRMAN. So that you'd say by midsummer of next year, you ought to be able to come up with something, some intelligent information for us in that area?

Dr. KAYE. Much better than we have now, yes, sir, that's our anticipation.

Mr. ANDERSON. The studies I mentioned yesterday, Senator, that is being done on the cab-over versus the engine in front. I checked on it last night, when the research is going to be done. It's going to be done the last of December for the draft report, and our research division expects a final report by the first of March.

The CHAIRMAN. Very good.

How many inspectors would the Bureau of Motor Carrier Safety require to provide adequate enforcement of the existing regulations?

Mr. HASSELL. That is a very difficult question to address, Mr. Chairman. The size of the driver force, the fleet and the number of drivers makes it a very difficult problem to adequately provide enough Federal inspectors. At this time I think any estimate that we would give would be a pure guess. It is, though, behind the reason we're looking at our demonstration project to supplement the Federal force. We are concerned about the size of the present inspector force and have been recommending some increases over the last few years, which have been

Digitized by Google

accepted. But we're still working in an area here were we have a very small inspector force and a very large number of vehicles and drivers.

The CHAIRMAN. I suppose it would be impossible for you to say at this time how many administrative law judges would be required to handle the proceedings resulting from adequate enforcement, too, wouldn't it?

Mr. ANDERSON. Well, at the present time we do have administrative law judges that process our hearings for drivers. Generally, it's just one judge that handles most of our cases. Now, I think if there's any indication, I think, of that, the drivers versus the others, I would say maybe half a dozen law judges could handle our workload.

The CHAIRMAN. Does DOT support an extension of the existing historical exemptions for certain carriers that carry perishable goods?

Mr. HASSELL. We haven't addressed that in that statement. Do you have anything on that?

Dr. KAYE. Senator, if you're speaking of what they call exempt carriers that are exempt from economic regulations, there is no carrier in interstate and foreign commerce that is exempt from the safety regulation pro forma. If I understand your question correctly, you're speaking of the economic ICC regulation vis-a-vis the DOT safety regulation. There is no exemption from the DOT safety regulation.

The CHAIRMAN. Does DOT favor basic uniformity among all the States when driving conditions may differ substantially, for example, in the West as compared to the northeastern part of the United States?

Mr. HASSELL. The present program does recognize those kinds of differences, because the State program is a very important part of the Federal program. We examine it as part of our Federal program. We feel that the requirements in the bill, S. 2970, will provide the needed level of uniformity at this time.

The CHAIRMAN. So that you do favor basic uniformity?

Mr. HASSELL. In the basic requirements, correct. But the application and the specifics become better handled through the State approach that we have been using, with State enforcement of the specifics.

The CHAIRMAN. It's quite clear to me that you certainly have got different conditions that exist. For example, you referred to one of my neighboring states a few minutes ago. Regarding the issue we were on yesterday, trucks can pull three trailers at one time in my State. Yet in many of the Eastern States, you're limited to trailer length so that they could not carry more than one, and even then not a very long one. And yet, our accident record out there is better than most of the States that have much lower limits.

Mr. HASSELL. It's a very important difference Senator, between the environments that those vehicles operate in. You're quite correct, there is a distinctive difference between the States, and that's the reason why we favor some variations and allow for that in the program that we presently have.

The CHAIRMAN. When you say you favor basic uniformity, you're going to have to be very careful that you don't put them in a straightjacket.

Mr. HASSELL. Yes, Mr. Chairman.

The CHAIRMAN. Does DOT support the broad scope of S. 2970 to include buses and all commercial vehicles?

Digitized by Google

Mr. ANDERSON. Yes; very much so. At the present time, as an example, we are not in the bus area, not permitted to enforce the Federal motor carrier safety regulations on the private carrier of passengers, such as the church groups that travel or such as the groups that were killed in Martinez, the 29 youngsters killed there about a year ago. That bus was not under our jurisdiction. And we feel that they should be complying with the safety regulations also.

The CHAIRMAN. How substantial an increase does that represent over the situation today?

Mr. ANDERSON. In numbers of vehicles, we presently have under our jurisdiction around 3 million vehicles and if we expanded that as in the present bill, it would be around 6 million.

The CHAIRMAN. Just about double.

Mr. ANDERSON. Just about double.

The CHAIRMAN. Would you comment on the alleged uneven regulation of the larger carriers as compared to the smaller operators?

Mr. HASSELL. Mr. Anderson, you'd be better qualified to address that.

Mr. ANDERSON. Why don't you go ahead?

Dr. KAYE. If I understand your question correctly, Mr. Chairman, you probably are speaking about the larger vehicles and those 10,000-pound gross vehicle weight or less, is that it?

The CHAIRMAN. No; I'm talking about the larger carrier lines as compared to the smaller individual operators. The charge is frequently made that the regulations are enforced unevenly as between those two classes of carriers.

Dr. KAYE. Yes; I've heard complaints along this line. But I can assure you that our 133 vehicle inspectors do not select carriers by size. We select them as they come through the inspection lane, inspection stations, ports of entry. And we do not concentrate necessarily on private versus contract versus common, although we've heard a number of times where they say, this big organization's truck pulled through and others didn't. I have yet to see any evidence of that other than hear a complaint. We even inquired of our safety investigators. They are under no quota system, they are under no selecting system. They take them and call them as they see them.

Mr. HASSELL. You described in the screening spot-check activity the typical way that the inspectors do operate. Because of the large volume of vehicles and the number of vehicles that they have to handle individually, it becomes important to use the screening technique rather than a blanket total checking procedure, and they have very definitely been directed to be uniform in their application. And where there may be appearance, it has to do with the circumstances of that particular checking operation.

The CHAIRMAN. Does DOT support extending the regulation by DOT to the farm trucks and farm vehicles?

Mr. ANDERSON. We do cover at the present time some of the farm-type products. We do cover for instance, the hauling of cattle and so on that cross the State line. We do have jurisdiction of the interstate carrier at the present time. We do not have the normal farm-to-market hauling, though. However, under this law we would be covering those vehicles that are over 10,000 pounds gross weight.

Digitized by Google

The CHAIRMAN. Do you support that or do you not?

Mr. ANDERSON. Yes; we do.

The CHAIRMAN. Do you think it ought to be extended into that area?

Mr. ANDERSON. We do.

The CHAIRMAN. How frequently does DOT set up a strike force such as the recent effort in Pennsylvania?

Mr. ANDERSON. We have in the past month carried out four of them. One of them operated in your State near Wendover, Utah, in the Utah area, though. We anticipate doing these regularly, four, five, and six a month, depending upon the availability of our staff.

The findings in Wendover and in St. George, Utah, were very similar to those up in Pennsylvania.

The CHAIRMAN. Were the percentages of violations as high as those in Pennsylvania?

Mr. ANDERSON. The one in St. George was just as high. The one in Wendover, maybe because it went through Nevada, was not as high.

The CHAIRMAN. Well, I was born in St. George, so be careful what you say.

Don't you think that those results are pretty shocking, the results of that kind of a test?

Mr. ANDERSON. Extremely.

Mr. HASSELL. Very.

The CHAIRMAN. Does DOT set priorities for inspection efforts according to the density of commercial traffic or according to the traditional Federal regions?

Mr. HASSELL. Dr. Kaye, why don't you describe that?

Dr. KAYE. The DOT's program is generally one of an annual program submitted to the field, and each region operates within its own areas of jurisdiction and assigns its staff to go on inspections, serve safety regulations, and all that sort of thing. These road checks have been going on ever since we got into the business in 1935, more or less. But they've been given greater emphasis now on what we call a strike force in one or more regions combining forces to get more of an effort and more of a result.

With regard to the location and the time, as Mr. Anderson pointed out, it's essentially one of priorities, programing, and what is it that they can do and how they can combine it. But there are road checks, I would say, going on throughout this country, most every month someplace or most every week someplace. It may be just one region doing it with two or three fellows in conjunction with State enforcement officers. We always work in conjunction with the public service commission, the State highway patrol, or whoever's in charge of safety within the States when we do our safety investigations.

The CHAIRMAN. Are they traditionally coming up with these kinds of results? You've told us about three of them and indicated that all three were roughly on the order of 54 percent of the vehicles actually put out of service. To me, that's a signal that if I'm driving on the highway and I see a truck coming, I'm going to take off, if I've got a 50-percent chance of being in an accident because of that truck.

Dr. KAYE. In the past 2 years, Senator, the out-of-service number has increased significantly.

The CHAIRMAN. Why is that?

Digitized by Google

Dr. KAYE. There probably are several reasons why. One is that there's an increased density of the traffic. No. 2, there may be some relation to fatigue, which we're looking into and giving it a higher priority on the hours of service.

The CHAIRMAN. But the fatigue wouldn't have any relation to whether the truck is in a safe condition or not; would it?

Dr. KAYE. What I was building up to, was an overall package on the situation. The trucking industry, in the past years, like other industries, has suffered some financial problems as well, and when they do, my guess is that if something has to give it would be in the safety maintenance area. And that is probably why the trucks are getting a little bit in worse shape.

Twenty to 25 percent used to be what we considered common out of service findings of those vehicles selected. You know we pick out those that are most likely candidates, so we can't say that every other truck on the road is a potential imminently hazardous vehicle. It's those trucks that we select as likely candidates for out-of-service. So the figure is great, but it's not precise to that extent, and it's a serious problem.

The CHAIRMAN. Well, how do you make a determination as to who is a likely candidate? You've got a truck coming down the road. How does your inspector eyeball that and say, well, that truck is a likely candidate? Does he look at the name tag?

Dr. KAYE. No. I have witnessed a number of road checks. It's amazing to me the sixth sense that these gentlemen have. I've seen spanking new trucks come up to the weigh inspection stations, and the inspector would say, now apply your brakes, now release them. And he would then say, move over, I want to check them. I would ask, why he did that, because that truck just pulled off the assembly line? He said, I can detect something in the air line of the brake. But I wouldn't have noted that.

But these inspectors are most likely—they have the capacity or capability of selecting trucks for inspection and generally find them out of service candidates. It's the training that they have that I don't possess. But they are schooled well.

The CHAIRMAN. When they take them out of service, what precisely do they do? I'm thinking now in terms of St. George or Wendover. You're a long way from no place. You're just at a weigh station out there on the highway, on the interstate highway, and your inspector selects that truck and says, OK, that truck is out of service. What's the driver going to do?

Dr. KAYE. The driver has no choice but to remain there until that vehicle is repaired there on that spot. Now, the fact that he may have produce or something else on his truck that is probably spoiling—is not our concern; safety is. We will not permit that truck to go. So the repair facility has to come to the truck to repair it at that spot, to get it rolling again. Just like the driver. When the driver's out of hours, he has to take his 8 hours. Sleep in the cab right there. So we don't permit them to go beyond that point. And we don't have to do too many of those Senator, before the word gets out that you better have your trucks in better shape if you're going through that inspection point, because they're likely to get delayed. Time is money for them, and to

Digitized by Google

wait and have a vehicle inspection, they're not enamored at all with that proposition, and it has quite an effect.

The CHAIRMAN. What kind of problems do you find, other than the brakes? What are some of the most common?

Dr. KAYE. The brakes are practically two-thirds of the out-of-service vehicles brake related: Hoses, brake lining, and that sort of thing. I would say lights are probably the second and perhaps tires for third, and they run the gamut down the list. But basically, we're concerned with those that are most obviously essential for the safety of that vehicle.

The CHAIRMAN. All right. Thank you, gentlemen. We'll have some questions for you for the record we'll submit, and you can supply the answers.

Mr. HASSELL. Surely, Mr. Chairman.

[The statement follows:]

STATEMENT OF JOHN S. HASSELL, JR., DEPUTY ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

Mr. Chairman and members of the committee, I am pleased to appear before you today to discuss the Administration's concern about truck safety and detail some of the actions we are taking to meet this issue. We will also discuss S. 2970, which we believe to be an important proposal to increase commercial vehicle safety. Accompanying me today are Howard L. Anderson, Associate Administrator for Safety, Dr. Robert A. Kaye, Director, Bureau of Motor Carrier Safety.

The Federal Government has a responsibility for safeguarding the motoring public from unreasonable risks from persons or firms that utilize the public highways in furtherance of business enterprises. This responsibility is shared with the State governments. Our approach to this statutory function involves several statutes and departmental programs.

Federal highway statutes require that safety be built into the highway physical plant; the Highway Safety Act of 1966 provides financial assistance to States to enable them to upgrade their highway safety programs designed to regulate motor vehicle registration, driver training and licensing, police services, and other aspects of highway operations and control. Under the safety provisions of Part II of the Interstate Commerce Act (ICA), the hours of service and qualifications of commercial vehicle drivers, the safety of operations, and equipment standards for trucks and buses engaged in interstate or foreign commerce are directly regulated by the Department of Transportation (DOT).

Under the latter statute, the Federal Highway Administration's (FHWA) Bureau of Motor Carrier Safety (BMCS) and its predecessor's activity at the Interstate Commerce Commission have promulgated and enforced the Federal Motor Carrier Safety Regulations (FMCSR) for more than 40 years, through field inspections, audits, enforcement investigations, and civil and criminal prosecutions.

The FMCSR apply to more than 150,000 business entities, that operate some 3 million trucks and buses, using between 3.5 and 4 million drivers in interstate or foreign commerce. Generally, the rules apply to operations utilizing vehicles with more than four tires on the pavement and with a gross vehicle rating of 10,000 pounds or more. The ICA does not apply to commercial vehicles in intrastate commerce, transportation of school children, recreational vehicles, and local farm vehicles. Our estimates are that something on the order of 50 percent of the commercial vehicles on the road are not covered by the statute. These are primarily dump trucks, service vehicles, tow trucks, local cartage vehicles, transit buses, government-owned vehicles, and personal transportation vehicles.

Over the past four decades, the Motor Carrier Safety Program has relied on a large degree of voluntary compliance by persons and firms subject to the statute, and many motor carriers have made significant investment in safety. We have utilized a "spot check" strategy to identify those firms that could not or would not expend the necessary funds to achieve substantial compliance. More recently, the selection of carriers for audit or investigation has been influenced by com-

Digitized by Google

plaints from drivers, ex-employees, labor unions, public interest groups, and the general public.

The issue of truck safety has received more public and media attention in recent months because of the phenomenal growth in the trucking industry that utilizes a highway system of relatively fixed mileage. The number of trucks in the traffic stream is increasing, and because the national 55 m.p.h. speed limit law causes all vehicles to travel at similar speeds, those trucks have become more visible.

Accordingly, over the last 2 years we have undertaken special programs to (1) identify carriers since registration is not required of private and exempt commodity carriers; (2) to audit carriers that have not had previous contact with the BMCS; (3) to conduct special road checks of tank vehicles which pose a special risk if transporting hazardous materials; (4) to interest States in adopting the Federal rules; and (5) to provide training to State enforcement officers.

In support of FHWA truck enforcement and safety efforts, research is underway to (1) develop automatic weighing-in-motion systems that may be easily installed on bridge birders; (2) analyze problems relating to truck ride quality; (3) investigate highway operation of heavy trucks related to their performance in traffic, e.g., accident analyses, aerodynamics, splash and spray, off-tracking, handling, special downgrade control problems, and other pertinent subjects; and (4) study many other safety related issues that apply to all vehicles using the highway systems including trucks.

Additionally, we proposed and Congress enacted a demonstration program, to begin next fiscal year, to assess the value of continuous safety inspection and weighing activity by State enforcement officers in two or three States. This test is to determine the value of an alternative to a large Federal force of inspectors and investigators to meet the rapid growth in trucking.

Specifically addressing our views on S. 2970, we believe this bill represents a very important legislative initiaitve. The DOT supports several of the provisions of this bill, which are designed to strength Federal safety regulation of commercial vehicles.

We particularly consider the provisions of the bill which would establish civil penalties in meaningful amounts to be very important and necessary, and we strongly support those provisions. Criimnal penalties require the establishment, to the satisfaction of the court, that the violation was knowingly and willfully committed, thereby frustrating the imposition of penalties in cases where it is extremely difficult to show that the violator know he was subject to the regulations and that he knew and permitted a particular action or omission to take place. In many venues, the cases may be several years old before they are presented to a judge because of heavy case loads. The number of counts presented and the level of fines assessed are subject to the subjective judgment of the U.S. Attorney and the judge, who may or may not feel strongly about what may be viewed as violations of administrative law concerning a driver's excess hours, a defective vehicle, or a driver's qualifications. The existing criminal penalties can amount to a little more than a routine cost of business. Criminal penalties, with their minimal fines and the necessity of processing them in crowded court dockets, have not been successful as deterrents to unsafe practices.

Presentation of certain types of counts, particularly those involving vehicle defects, is very difficult using criminal procedures, because of scattered venue. A particular carrier might have 10 vehicles placed out of service over a period of time and, under criminal procedures, because of the locations at which the vehicles were inspected, it is likely that as many as 10 separate and distinct cases would have to be prepared and presented in separate courts thereby greatly weakening our chances of successful prosecution.

On the other hand, in those instances in which the BMS is able to use its existing but limited civil forfeiture procedures, a relatively consistent level of penalties is maintained, and sanctions are related to a combination of past efforts to obtain compliance, the nature and seriousness of the violations, the cause of the violations, and the ability of the defendant to pay. I should mention, however, that we have civil penalty authority only with respect to reporting and filing violations.

With respect to other provisions of the bill, we do not believe that the assignment to the National Transportation Safety Board (NTSB) of the function of a review panel is appropriate. We do not feel that the NTSB is the proper fourm to review the orders of the Secretary involving the punishment of violations.

Digitized by Google

While it is true that the NTSB is currently set up to review findings relating to the qualifications of aircraft pilots, the findings in such cases are based on fact, whereas review of the level of proposed penalties involves the exercise of technical assessments as to the level of penalty that will assure future compliance. This section would have the effect of placing the NTSB in command of the safety programs envisioned by this Act, rather than allowing the Secretary of Transportation to be the paramount authority. We recommend that the legislation provide for a review procedure within the agency, using Administrative Law Judges and following the requirements of the Administrative Procedure Act. Such an approach would provide full due process guarantees, while also facilitating uniformity and effective program administration.

Section 7(b) would require the Secretary of Transportation to issue regulations concerning the healthfulness of motor carrier employees' working conditions. The BMCS, within this Department, already has authority to regulate in the area of health and safety for those employees when their duties affect safety of operation. The Bureau has instituted rulemaking to define clearly the health and safety matters it will regulate and enforce. We believe that this approach to delineating the responsibilities of the Bureau in this important area is preferable to the approach in S. 2970, since it enables the DOT and other interested Federal agencies to develop the most effective and efficient overall system for assuring employees' health and safety. We recommend, therefore, that section 7(b) be deleted.

Upon reconsideration of section 8, we believe that the authority given to the Secretary to require record-keeping should remain at a minimum to relieve the burden on industry and employees. We are reviewing other aspects of section 8 and may wish to submit further comments to the Committee at a later time.

We also support the protection of employees provided by section 12 of the bill against retaliatory firing or other discrimination based on their having filed complaints about or refusing to work under unsafe conditions. These basic rights of employees should be fully protected. We would recommend, however, that this protection provide for investigation and administrative enforcement action by the Secretary of Labor, as is the case under many other statutes. The private right of action proposed in S. 2970 should be retained as an alternative course of action—an employee would elect one procedure or the other.

Section 13 of S. 2970 would establish a Federal program of assistance to States which file a plan acceptable to the Secretary of Transportation for State enforcement of Federal regulations. We do not endorse this provision. We are planning to initiate a demonstration projects in this area during the coming year. The results of that effort should be evaluated before it can be determined whether a new Federal assistance program should be established.

Nor do we support section 14 which requires the annual submission of a report to Congress. This Administration is currently trying to reduce the number of "pro forma" reports which are generating so much paperwork within the Government.

Finally, we believe the legislation should be amended to clarify that it will in no way affect the present authority of the Secretary of Labor under the Occupational Safety and Health Act to regulate the working conditions not covered by this bill.

In summary, we believe a modified version of this bill will go a long way in meeting the shortcomings in the present legislation in this area, yet not foreclose options nor commit the Government to an as yet untested financial assistance program.

Certainly, the risks and tragic losses of life and property associated with commercial vehicle collisions require our urgent attention, and whatever can be done to improve the deterrence capability of the Government to effect reduced risks should be undertaken. We stand ready to do our part, within the laws and resources made available to us.

This concludes my prepared statement. My associates and I would be happy to answer any questions you might have.

[The following information was subsequently received for the record.]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. You characterize the interchange of information with the States as extensive in the area of truck safety. Please describe in detail what types of information are available from the States to DOT, and vice versa.

Digitized by Google

Answer. Some States that are active in the motor carrier safety field routinely transmit information to Federal Motor Carrier Safety Offices. Notification of accidents, truck accident investigation reports, and truck inspection reports are some examples. All States cooperate in providing any information available to them when requested. The informal contacts made on an individual basis between Federal and State officials, as well as institutional contacts at training sessions and joint meetings, are another source where information is cooperatively exchanged. All Federal information is available to State officials on request and many publications, like annual statistical summaries, copies of the Federal Motor Carrier Safety or Hazardous Materials Transportation Regulations, are furnished to the States. The results of the last survey of types of State information received by the Bureau of Motor Carrier Safety produced the following:

State	State reports furnished BMCS as of Sept. 30, 1977	Agency reporting
Arizona	Arrest citations, driver/vehicle violations	ACC and AHP.
Arkansas	do	ATC.
Colorado	Fatal truck and bus accident investigations, hazardous materials incidents.	Colorado Department of Revenue, CHP.
Florida	Vehicle inspection reports	PSC.
Georgia	do	Georgia Department of Public Safety.
Idaho	Accident investigation reports, vehicle inspection reports	ISP, ISP (weigh station).
Indiana	Vehicle inspection reports, per cooperative agreement	IHP.
Iowa	Notification of hazardous materials accidents—accident investigations and vehicle inspection, per cooperative agreement.	IHP and IDOT.
Kansas	Vehicle inspection reports, accident investigation reports, per cooperative agreement.	KHP, Kansas Department of Revenue.
Kentucky	Vehicle inspection reports	KDOT.
Maryland	Accident notification—vehicle inspection reports	MSP.
Minnesota	Vehicle inspection reports	MHP and MDOT.
Missouri	Accident investigation reports, per cooperative agreement	MHP.
Nebraska	Fatal accident investigation reports, per cooperative agreement	Department of Roads.
New Jersey	Serious accident notification	NJSP.
North Carolina	Vehicle inspection reports	PSC.
North Dakota	do	NDHP and PSC.
Ohio	Vehicle inspection reports to ICC, which then forwards to FHWA regional office.	PUCO.
Oregon	Vehicle inspection reports	OSP.
Rhode Island	Notification of serious accidents—vehicle inspections	RISP.
South Carolina	Vehicle inspection reports	Not reported.
South Dakota	Vehicle contact report TC2	SDHP.
Tennessee	Vehicle inspection reports	PSC.
Texas	Accident investigation reports—vehicle inspection reports	Texas Department of Public safety.
Utah	Fatal accident investigation reports	UDOT and FSC.
Washington	Accident investigation reports	WSP.
Wyoming	Accident investigation reports—weekly summary of accidents	WHP.

Question. What are the present dollars and manpower that are directed to truck safety inspection at the Federal level?

Answer. Truck safety is addressed through several Federal programs, including safety features built into the highway system, several motor vehicle manufacturer standards, safety program standards administered by States under Federal funding and safety projects under highway safety grants. Some part of these activities inures to the benefit of truck safety.

With respect to truck safety inspection at the Federal level, funds specifically appropriated to the Motor Carrier Safety Program in FY 1979 amount to $12,300,000. An increase of 26 positions was also authorized in this fiscal year, making the total authorized full-time position strength 267.

It must also be noted that the Federal Highway Administration provides logistic support, administrative services, and legal support. Some parts of these services are compensated for by a transfer of funds from the Motor Carrier Safety appropriation to the General Operating Expense account in FHWA.

Question. S. 2970 sets a 10,000 Gross Vehicle Weight limitation on the coverage of commercial vehicles. Do you believe that such a limitation is justified, and if so, on what basis?

Answer. Existing Motor Carrier Safety authority covers all commercial vehicles regardless of gross weight. However, smaller vehicles have been accorded administrative exemptions. We believe this limitation is justified on the basis that small vans and pickup trucks are more similar to automobiles than to

Digitized by Google

medium and heavy commercial vehicles, and can best be regulated under State automobile licensing, inspection, and traffic surveillance, except for vehicles transporting hazardous materials which should be covered.

Question. In your testimony, you supported the notion of extending coverage of BMCS to buses and farm trucks and other farm equipment above 10,000 gross vehicle weight. Why do you believe such extension of coverage would be useful? On what basis, if any, do you believe that present exemptions for the operation of farm equipment can be made, and do you believe they are justified?

Answer. Since existing authority covers buses and large farm vehicles, we do not view S. 2970 as extending coverage. We believe the safety of persons being transported for hire and the trend away from small individual farms to large holdings by agribusiness would make such exemptions questionable. An employee of agribusiness who is unqualified and operating a malmaintained vehicle is as large a risk as a vehicle being operated in a commercial enterprise. All of these operations should be statutorily covered, with provision for continuing administrative relief for small farm vehicles, vanpools, and others where their exemption will not affect the overall safety regulatory program.

The CHAIRMAN. Next is the Honorable James King, Chairman of NTSB.

STATEMENT OF HON. JAMES KING, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

Mr. KING. Good morning, Mr. Chairman. It is a pleasure to be here today to testify on S. 2970, the Truck Safety Act of 1978, a bill to "promote commercial motor vehicle safety, to prevent injury to commercial motor vehicle operators, and for other purposes."

I want to thank the committee for holding these hearings in this critical safety area. Section 2 of S. 2970 addresses several important issues in commercial motor vehicle safety, particularly the substantial size and weight of heavy trucks in comparison to the passenger vehicles with whom they share the highway and the inability of existing regulations to insure that carriers and drivers inspect their vehicles and maintain them in a safe condition.

Although only approximately 6 percent of the trucking industry accidents are chargeable to mechanical defects—the motor vehicle carrier safety strike team on road inspections indicated that 30 percent of the vehicles inspected were placed out of service as being imminently hazardous.

The California State Highway Patrol inspected approximately 115,000 combination vehicles and found approximately 237,000 vehicle defects.

So I think it's become clear that the present enforcement hasn't been sufficient to persuade carriers and drivers to inspect their vehicles and make sure that they are safe before putting them on the road.

The Safety Board has also recognized commercial vehicle maintenance as a critical issue and has made a reduction in the number of maintenance-related commercial interstate motor vehicle accidents one of its goals for the immediate future.

Recognizing the deficiencies of the present system, S. 2970 proposes several constructive ideas. Two of the bill's approaches appear very promising.

First, the system of civil penalties proposed could be flexible and tailored to meet the seriousness of the violation. Second, the bill would encourage employees and others who are aware of unsafe conditions

Digitized by Google

to report them and to try to protect legitimate whistle blowers from discrimination or retribution.

We at the NTSB do have some concerns about the mechanical and procedural aspects of the bill.

The bill would establish and quasi-judicial system of appellate review of citations and orders issued by the Secretary of Transportation under section 9. Appeals by violators would be heard by the NTSB. The Board would have no objection to acting in this capacity. We do, however, want the committee to be aware of the substantial staff increases which would be required to hear these appeals.

Presently we have 6 law judges who process approximately 600 aviation cases a year, including 300 which require hearings. Of those cases, 120 are appealed to our full Board. Under this bill, there are approximately 9 million trucking employees who could file or report violations.

The CHAIRMAN. How many?

Mr. KING. We have 9 million, according to the ATA figures that were given in a 1977 annual compilation that were reported to us that were involved in the trucking industry, sir.

I can supply for the record, if you'd like, Senator, the exact citation and page.

[The following information was subsequently received for the record:]

"Vehicle Facts and Figures—1977" compiled by the Motor Vehicle Manufacturers Association of the United States, Inc., from the Bureau of Census and American Trucking Association data. Page 69.

Mr. KING. If approximately only one-quarter of 1 percent filed complaints, approximately 22,500 would have to be investigated by the Bureau of Motor Carrier Safety, and if 80 percent of those could be settled, the approximately 4,500 cases remaining could be appealed to our board.

With this workload, we could be faced with adding approximately 50 administrative law judges, plus the additional supporting clerical staff, and additional attorneys to handle cases appealed to the full Board.

Although these are only estimates, we do believe that they are not unreasonable, in light of the experience of the Occupational Safety and Health Administration where a similar employee complaint system is utilized.

We understand that they receive approximately 24,000 safety and health complaints each year, all of which must be investigated to verify the existence of the violations.

In calendar year 1977, approximately 4,500 cases were referred to their administrative law judges for decisions. To handle these cases, they are presently employing 47 administrative law judges. There is no doubt that this bill would require a sizable number of additional employees by both the Bureau of Motor Carrier Safety and our own Board if this bill were enacted.

Most of these employees would be here in Washington, Senator and not out on the road.

Although we recognize that the existing BMCS enforcement program is inadequate and that there exists a serious safety problem, it

Digitized by Google

appears appropriate to speculate as to whether the additional manpower which would be required by this bill could not be better utilized by seeking to improve the existing system.

There is a need to devise a simpler and effective violation reporting system. This would increase the current number of Bureau of Motor Carrier safety inspection personnel and to make certain that they are at field locations where they can investigate and inspect with efficiency and dispatch.

Recent efforts by the Bureau of Motor Carrier Safety to use strike teams of inspectors could and should be increased, and attention focused on carrier operators who have demonstrated a practice of condoning safety violations.

Thank you for having me here today, Senator. I am available for questions.

The CHAIRMAN. Thank you, Mr. King.

The NTSB previously expressed support for the administrative solution proposed in S. 2970, which would vest authority to decide cases involving truck safety violations with the NTSB.

In your statement today, you say your staff has certain reservations about the mechanical and procedural aspects of the bill. Do you favor the procedures set forth in S. 2970?

Mr. KING. First the Board will definitely be able to handle that. I'm merely saying that it would take a substantial increase in personnel. The effect of that increase is the question which, Senator, I think that we're weighing before you in a public manner. I'm saying yes we can carry this out. But I'm asking, could that personnel be more effectively used on the highways through BMCS strike force teams?

We feel that this question should be looked at very carefully.

If you're asking can the NTSB do the job proposed in S. 2970, are they willing, are they qualified—are they capable of doing this—the answer is yes.

We should understand what that means. What I'm saying is that if we use the same resources and allocate them out into the field rather than for the bureaucratic paper things that sometimes I see, then we should consider what the tradeoffs are.

My instincts right now, Senator, that I think for dollar value the American people and the truckers of this country would be a lot safer with some more folks out there knowing that they're going to be caught, rather than developing elaborate appeal procedures that may even be an overlapping of existing judicial systems.

The CHAIRMAN. So you're really suggesting that we modify the procedures that are proposed here in the bill.

Mr. KING. I'm saying that those considerations should be weighed, Senator. And again, I'll yield to whatever the committee decides and the Congress decides. I'd like to surface those concerns, sir.

The CHAIRMAN. How much additional funding and manpower do you estimate would be required to carry out your duties if this bill were passed?

Mr. KING. We see approximately 50 law judges to handle these cases. That's an approximate figure, Senator. And then there is the staff that would be required to support them. Our six judges have seven people supporting them in the office alone.

Digitized by Google

I'm playing with very small figures, but using the Occupational Safety and Review Commission as a model we think we would need at least 140 people for this task, and that would be a minimum figure.

The CHAIRMAN. Could you give me an estimated dollar figure off the top of your head?

Mr. KING. I'd have to have my calculator. I could respond for the record to that, Senator.

The CHAIRMAN. All right.

[The following information was subsequently received for the record:]

The Safety Board would require approximately 140 additional positions for appellate review of citations and orders issued by the Secretary of Transportation pursuant to this act. These positions would consist of 50 law judges and 50 clerical support positions to hear the appeals; 25 attorneys to handle the appeals to the full Board as we currently handle aviation enforcement cases; and 15 other administrative and clerical positions to support the level of activity generated by this additional responsibility. The Board would require an additional appropriation of approximately $6,500,000 if this bill is enacted.

The CHAIRMAN. The NTSB has focused on commercial vehicle maintenance as a critical safety priority. Now what practical steps has the board taken to implement this goal?

Mr. KING. Senator, up until now, our response on investigations was governed by the legislation, which basically had us responding to catastrophic accidents. Then if we had any filler time we would decide on a professional level, on an ad hoc basis, which other accidents to investigate.

This year's budget which was just submitted, Senator, reflects on some of the areas that we would like to be involved in.

First, Senator, I should indicate that we have 16 full-time people in highway accident investigation. That includes the entire professional staff, including supervisory, to meet merely the catastrophic kinds of accidents that do occur. We have investigated approximately 40 heavy truck accidents since 1968.

The CHAIRMAN. Did you say 16 people? Are you saying that only in relation to——

Mr. KING. Highways, sir.

The CHAIRMAN. How many do you have in the field of aviation accidents?

Mr. KING. In aviation, we have approximately 138, sir.

The CHAIRMAN. This bill would authorize $100 million to be spent on State truck safety programs, similar to others, such as pipeline safety. Do you believe that these kinds of programs could result in adequate enforcement to protect the public safety?

Mr. KING. Well, when we talk about pipeline, my immediate parallel is, I like the idea of the Federal Government working in cooperation with the States. Unfortunately, our dealings with OPSO have been disappointing. The response has been so limited, I hate to use that as a parallel for our conversation.

I would like to think that if the BMCS, which has been responsive as far as their resources have permitted them, if an organization of that type were given additional resources and had some control over the type of events that went on in the State, I could see that as a very, very productive operation, sir.

Digitized by Google

The CHAIRMAN. Do you perform spot checks such as we've heard about here in the field of aviation?

Mr. KING. No, sir. That's FAA's responsibility.

The CHAIRMAN. You engage in investigations?

Mr. KING. Yes, sir. We make recommendations after the investigations if we feel that problems are surfacing.

For example, we have found over a period of our investigations that a substantial number were brake-related. I believe that the gentleman who testified just before me mentioned Martinez, where 29 children were killed. That was an investigation that the NTSB had conducted and we found out that was a mechanical difficulty that included brakes. And an inspection of that particular vehicle would, in all probability, have detected the equipment that failed.

That's the sort of thing I think we're addressing.

The CHAIRMAN. Why are so many people in your organization assigned to aviation, as compared with the highways?

Mr. KING. I think that the first thing is that our roots are clearly in aviation. We came out of the CAB. We became an independent board in 1974. The other area, too, is that really, in aviation, that's been the one area, one mode of travel that is most clearly Federal in jurisdiction. There doesn't seem to be any question of Federal primacy.

When you're talking about highways, Senator, as you know, you're talking about the local police and you're talking about State legislatures, you're talking about county sheriffs, you're talking about county police departments. I'm thinking about the Allegheny County police outside of Pittsburgh. You have a county force, you have highway patrols, State police, you have this bordering, if you will, a jurisdictional question.

There is no clearcut jurisdiction for the Federal folks to be involved.

So we're heavy in those areas where we have a clear mandate. We're supposed to have a performance, where we have a mandate to investigate all major accidents in relation to aviation, and this we've done. And I think the agency has carried it out with credit.

The CHAIRMAN. Are you satisfied that your agency or any other agency can assess the causation of motor vehicle accidents, for example, compared with accidents involving airplanes or railroads?

Mr. KING. It's very difficult for two reasons: One is, for example, if we go into a major investigation, aviation investigation, we can usually freeze the site—you know, rope it off. We can secure it. We can basically shut it down and then methodically go at the investigation.

We have cockpit voice recorders, flight recorders, data flight recorders. We have certain sorts of fixed materials and instruments in aviation that really aren't available on the highway.

The other thing in the highway mode is that, quite often, by the time we hear about it, the accident is passed. The wreckage has been removed. A lot of the on-site sorts of things are gone, a number of the witnesses are scattered.

So a lot of our work is based on trying to analyze the after-the-fact information. We will go out and try to obtain original information, but again, in this kind of a situation, it's an extremely expensive and time-consuming operation, and we have to really make a decision whether it is worth the resource allocation.

Digitized by Google

The CHAIRMAN. How do you select which truck accidents you investigate?

Mr. KING. In Marion, N.C., a fair-sized truck was pulling a trailer with a piece of construction equipment on it. The trailer brakes failed on a hill, the truck looped out and hit an oncoming van with a tennis team from a small college from South Carolina and killed the entire team.

That's the sort of thing that we move on right away. There's just no question.

The propylene explosion in Spain—we feel that's an area we should be concerned about because of the bulk handling of hazardous materials. Could that sort of thing happen in the United States? What are the ramifications of it? What should we be knowledgeable about?

We sent a team there without question. We did the same in Mexico. We reacted to the recent propane turnover in California just last week. It was in an unpopulated area and wasn't catastrophic. It was permitted to burn itself out.

So those are the kinds of things we're responding to.

The CHAIRMAN. Do you compile statistics on your findings and recommendations in the truck safety area?

Mr. KING. Our statistics, our total sample of accidents is so small that we almost have to deal with cases individually.

What we do is we take our accident investigation and parallel it as best we can to other statistical bases to see whether then there seems to be a profile. And we will base recommendations on that many times.

Or in some cases, the event may be purely episodic and we're there in many cases, as you know, Senator. There's a question as to whether a particular product or a highway or a situation is safe, and we're there as an independent body to assure the public and the Congress that there will be a full impartial hearing conducted by professionals and that our recommendations, we don't have any axe to grind and, quite frankly, we don't have any backside to cover, either.

The CHAIRMAN. In your statement, you made a reference to OSHA in trying to determine what numbers of people you required.

Now OSHA has jurisdiction over a vastly greater area than that covered by this bill. Do you believe that the experience of OSHA is transferable to the much narrower issues at hand here?

Mr. KING. There are substantial numbers, Senator, in the trucking industry. And the other thing, in the trucking industry, you have a much more highly organized bargaining unit which is, you know, when we talk about OSHA, we're talking about a much larger blanket, which is true as far as actual employee base. But you are also talking about a different sort of thing with different kinds of people interacting, and I believe that this is a much more sophisticated audience than the audience OSHA deals with.

The CHAIRMAN. What kind of an investigative force do you believe would be necessary to perform adequate enforcement on the highways of the truck safety regulations?

Mr. KING. I think my colleagues from the BMCS were correct in fudging the question.

The CHAIRMAN. So we're going to have a double fudge.

Digitized by Google

Mr. KING. Let's say we could add a little flavor to it, Senator. I'd like to think that this might have a little heavier chocolate in it.

There are a number of people out there who are responsible for handling highway safety. One of the things, as you look across, there doesn't seem to be a coordinated effort. There are efforts being made, but there has been a shortage of resources. The BMCS has always been short of the personnel that they need to carry out their responsibilities.

That if that could be done, if they had, as you suggested, some leverage with the State officials and if they were tied in so that there was some relationships there and we started to have that kind of a coordinated efforts, there's an awful lot of folks out there who are addressing themselves to this issue.

What I'm saying is that I think what you'd want to see is how it could be started, how you'd pull it together with the resources that are there.

Right now it would be a manager's nightmare. And what I'm suggesting is that it should be looked at by the folks who are responsible, come back with a management approach, and then report it back to you and say, here's what the problems are and here's what we think it would take for proper execution, and what level of delivery you could expect at given levels of funding.

The CHAIRMAN. Of course, we're a little late to start looking at the problem, aren't we?

Mr. KING. Well, I don't think we're ever too late.

The CHAIRMAN. I'm not suggesting we're too late. I'm suggesting we're later than we ought to have been.

Mr. KING. Well, I would say I'm glad to see that we're acting.

The CHAIRMAN. All right. Thank you very much.

We may have some questions for you for the record.

Mr. KING. Thank you, again, Senator, for having me here.

[The following information was subsequently received for the record:]

NATIONAL TRANSPORTATION SAFETY BOARD,
Washington, D.C., October 24, 1978.

HON. HOWARD W. CANNON,
U.S. Senate,
Committee on Commerce, Science, and Transportation,
Washington, D.C.

DEAR SENATOR CANNON: Your letter of September 20, forwarded questions regarding my testimony and the testimony of other witnesses concerning S. 2790, the Truck Safety Act of 1978.

Our responses to the questions are enclosed. We found it possible to provide brief but, I hope, adequate answers to all questions with the exception of question 4. That question dealing with truck accident investigation required an in-depth response which was developed as a result of a discussion by our staff. Several accident reports are enclosed.

I appreciate the opportunity to amplify my testimony and hope the information I provided will prove helpful to our interests in safety.

Sincerely,

JAMES B. KING, Chairman.

Enclosures.

Question 1. In your testimony on S. 2970, you stressed the need to devise a more effective violation reporting system. How would the National Transportation Safety Board (NTSB) suggest this goal be achieved?

Digitized by Google

Answer. The need to devise a simpler and more efficient violation reporting system refers to my earlier statement that S. 2970 would encourage employees and others aware of unsafe conditions to report them. The bill itself contains a number of provisions intended to improve violations reporting and processing. My comments were intended to reinforce the direction taken by the bill.

Question 2. The NTSB makes recommendations on a wide variety of safety questions, and in that capacity has broader exposure to the various Federal safety programs. On the basis of this experience, how many inspectors does the NTSB estimate would be required to enforce effectively regulations on the books as of September 8, 1978 for truck safety.

Answer. An estimate of the number of inspectors required to enforce effectively regulations on the books for truck safety would require a detailed study which NTSB has not performed. The most similar Federal safety program is the inspection and enforcement program of the Federal Aviation Administration which now employs 800 inspectors whose efforts are applied to about 200,000 aircraft. However, these numbers cannot be applied in proportion to the approximately 3 million vehicles under BMCS regulations in interstate commerce. The regulations are of different complexity and the States already have a role of assistance in enforcing the motor carrier regulations. It is not known what level of enforcement action would be required in order to gain voluntary compliance of truck safety regulations.

Question 3. In your testimony, you suggest that the experience from the Occupational Health and Safety Administration is transferable to the Truck Safety Act area, despite the fact that the detection and burden of proof is probably less ambiguous in the truck safety area. On the basis of that transferability, you make arithmetical projections as to the number of personnel which would be required to implement the relevant provisions of S. 2970.

Answer. We assume that this Committee seeks our view as to whether the use of OSHA information is appropriate, in light of the indicated difference in their Act and S. 2970. Our selection of OSHA and OSHA Review Comm. was predicated on the single fact that its detection of violations is based on employee complaints as they would be under S. 2970. Whether the volume of complaints would be similar is conjectural but, in our view, OSHA is the only similar system available for comparison.

Accepting the premise that an appeal rate of approximately 20% would not be unreasonable, based on our own experience, we made a second projection as to a number of cases which would require hearings. It is from this figure estimating that one ALJ could handle 80 cases per year, that we estimated the number of ALJ's which would be required. Perhaps the difference you refer to would dicate fewer than 50 ALJ's. However, a projection based on our own experience with aviation and marine enforcement cases would indicate a much higher number of ALJ's, since our 6 law judges have only 300 cases per year or 50 per ALJ. In our view, any estimate is only an educated guess. However, it is our experience that hearings to afford due process require considerable resources. If backlogs of cases develop the system will be compromised.

Question 4. Would you provide the Committee with the procedures that the NTSB goes through when it investigates a truck accident? Please supply examples of such reports.

Note: This response has been extended somewhat to reflect discussion with committee staff.

Answer. Criteria followed in the selection of major highway accidents by the Safety Board are based on the Independent Safety Board Act of 1974. All catastrophic accidents are authorized to be investigated. A catastrophic accident is one of high public visibility due to a large number of fatalities, or is spectacular or includes a significant amount of property damage. Also, the Safety Board maintains a list of safety issues that are represented by their occurrence in a large number of accidents, under Congressional study, or a matter of public-industry concern.

Notification of serious accidents is often received while the vehicles and the States, county or local law enforcement agencies are still at the scene. When the Safety Board decides to investigate the accident, the local law enforcement agency's cooperation and participation is requested. The agency is asked to take

Digitized by Google

additional steps to protect and document perishable evidence at the accident scene. The local chief medical examiner or coroner is contacted and requested to perform autopsies which shall include test for the presence of alcohol and/or drugs.

Investigation teams are dispatched from the appropriate NTSB field office and the Investigator-in-Charge (IIC) is dispatched from Washington.

Safety Board teams investigating a major highway accident are composed of an Investigator-in-Charge; a human factors highway safety specialist; a civil engineer—highway; and an automotive engineer. The team is organized into three basic units: (1) Human Factors Group; (2) Vehicle Factors Group; and (3) A Highway/Environmental Group. Each group is under the chairmanship of a NTSB highway safety specialist. Chart 1 illustrates this arrangement. According to the DOT/NTSB Interagency Agreement, the Safety Board IIC is in charge of the investigation and if the Bureau of Motor Carrier Safety (BMCS) or the National Highway Traffic Safety Administration (NHTSA) wish to participate in the investigation, they are welcome. Cooperation is developed with the local law enforcement agency.

The first on-site action is the Organization Meeting which is chaired by the NTSB IIC or a Safety Board Member,[1] if one is present. The investigative plan is developed and the groups go to the accident scene for orientation before beginning their tasks.

The Human Factors Group interviews drivers and witnesses to verify identities, injuries, and obtain written statements. The coroner is requested to provide autopsy and death certificate reports. Driver records are checked.

In cases of suspected driver culpability, a background check is conducted of the drivers employment, his training, and driving reputation.

Occupant-vehicle contact points are carefully examined to explain injuries and/or ejections. Occupant restraint systems are examined.

The Vehicle Group conducts a detailed in-depth investigation of the involved vehicles. Some of the major items covered include: vehicle identification; vehicle damage and deformation documentation; witness statement examination; tires; physical evidence at the scene; and speed. Systems checks are made on the steering mechanism, brakes, suspension, electrical components, and drivetrain. Maintenance and operational records are also investigated.

The Highway/Environmental Group documents the environment and surroundings of the accident location. Documentation includes recording the existing cross section of the highway, characteristics of the pavement surface, alignment and meteorological factors. This documentation requires the examination of construction and maintenance records. Traffic control devices are surveyed, skid marks, debris, spilled materials, and other physical evidence of the accident is also investigated.

When the investigation is completed, a final meeting is held to make sure that everyone has all available information.

Before leaving the scene, the IIC meets with the State or local law enforcement agency, highway department personnel, etc., to share information and data.

Each Group chairman, with the cooperation of his personnel, prepares a report of the facts determined by their investigation; an analysis of these facts; conclusions as to their relation and the probable cause of the accident; and suggestions for NTSB safety recommendations.

The ICC holds a report outline meeting with the group chairman and interested parties to develop an outline and to determine the scope of the final report.

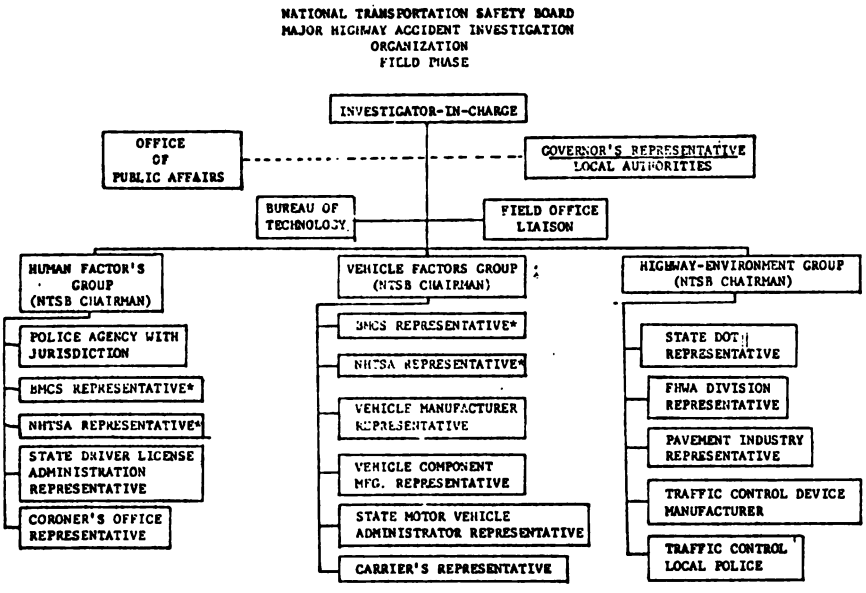
The draft of the final report is prepared by the IIC. It is then formally considered by the Safety Board, probable cause is determined and the report is released to the public.

Contained in the report will be the NTSB recommendations which will be directed to governmental agencies and the private sector. These recommendations will be for safety improvements which will help to prevent the future occurrence of this type of accident. The NTSB has follow-up procedures to keep track of recommendations and their compliance rate.

---

[1] Safety Board Members are on a rotating "Go Team" List.

Digitized by Google



* When they choose or are requested to participate

CHART 1

Question 5. In your testimony, you cited history and clear jurisdiction as the reasons that the NTSB allocates more manpower to the investigation of aviation accidents as compared with highway accidents. Do you favor this allocation of NTSB resources? Please explain the reasons for your position, or do you believe it would be useful for NTSB to expand its programs in the truck safety area?

Answer. The Board's resources are allocated to the aviation and highway modes according to the merits of each and the requirements of the statute. We do not believe that it is desirable to reduce resources in one field to serve another. It would not be desirable for NTSB to further expand relatively that part of its highway safety program which related to truck safety. Among highway accidents investigated by NTSB since its inception, more than 50 percent related to truck safety. There has already been a strong emphasis on truck accidents. Nearly all of these accidents involved trucks in interstate commerce.

The system of investigating aircraft accidents has been tailored over time to the needs in that mode. Expansion of Safety Board functions to cover other modes has permitted some economics in use of specialists common to all modes; but further significant use of the resources developed for aviation investigation to support other modes is impractical because specialied skills are involved. Hence, we feel that a direct increase in surface resources at the expense of aviation would be unwise as the Board is so small that economics of specialization in aviation become relevant. A decrease can have a more than proportionate impact on capabilities. Since there was no change in aviation responsibility, but an increase in other modes, incremental resources for the latter should be considered.

Question 6. In testimony the Department of Transportation states S. 2970 should provide for a review procedure within that agency (DOT, utilizing administrative law judges following the requirements of the Administrative Procedures Act). This approach provides guarantees of due process while also facili-

Digitized by Google

tating efficient administration of the program. Do you believe that such an approach would be more efficient and more appropriate than the review provisions of S. 2970, as presently drafted? Please explain.

Answer. We do not believe such an approach would be more efficient nor more appropriate than the review provisions of S. 2970. If the DOT proposal to provide the review procedure within the DOT itself were to be accepted, it is unclear if the decisions of the law judges would be the final order of the Secretary which could be appealed to the Courts, or whether there would be permitted an appeal to the Secretary or his designee. If the law judges were organizationally located in DOT and their decisions were final (i.e. appealable directly to the Courts), alleged violators would be deprived of final administrative review, with power to affirm, modify, or vacate their sanctions. Based on the Board's experience, the function of final administrative review tends to greatly reduce the number of cases appealed to the courts. If, on the other hand, the DOT proposal envisions that final action would be taken by the Secretary or his designee, we believe the benefits of the due process safeguards envisioned by requiring Administrative Procedures Act hearings would be weakened by returning the final decision to the same administrative enforcement agency (albeit at a higher organizational level) which issued the original citation or order. Under this arrangement, even if there were no actual loss of objectivity or independence in having the head of the agency issuing the citation review the validity of his subordinates' enforcement actions, the appearance of such lack of objectivity would be strong. Thus, in either event, a complete separation of the enforcement function from the hearing and review function by assigning each function to a different agency, as currently provided for in S. 2970, would seem to be preferable.

Question 7. You spoke of truck regulation as a "manager's nightmare" and suggested that the responsible persons come back with a management approach. What sort of approach would the National Transportation Safety Board favor?

Answer. In saying that "right now it would be a manager's nightmare", we were referring to the situation at present in obtaining adequate enforcement of truck safety regulation on highways. There was a problem in coordination of data and a shortage of resources. Further, work is being done with State officials who are conducting some enforcement action under agreements with the Bureau of Motor Carrier Safety of the Federal Highway Administration. This situation is complex. NTSB cannot design an overall approach to enforcement. That is the task of the responsible persons in the Bureau of Motor Carrier Safety. A total management approach is difficult to apply to that situation because many jurisdictions, thousands of carriers, and the different mechanisms for applying penalties.

The previous BMCS approach to obtaining enforcement with cooperation of States was based on agreements with the States and a low funding level of efforts. We intended to say that a full management design of an approach to this problem would include a broader scale study which could be reported to Congress as a basis for a broad approach to the enforcement problem.

Question 8. The figures for the number of trucks on the road presented by different persons during the course of the hearings differ widely. Please supply the figures which you used for the various types of trucks and their sources for the Committee.

Answer. The number I mentioned dealt with trucking employees. The figure ". . . approximately 9 million trucking employees . . ." was obtained from the American Trucking Association's (ATA) Research Review, Number 196, March 15, 1978. It cites 1976 trucking employment as estimated by ATA's Department of Interstate Cooperation, and includes "drivers, helpers, dock hands, clerks, executives, mechanics and the like." The actual number cited in the Research Review is 9,093,000.

The CHAIRMAN. Mr. Heber Hardy, chairman of the Nevada Public Service Commission, National Association of Regulatory Utility Commissioners.

Digitized by Google

STATEMENT OF HEBER HARDY, CHAIRMAN OF NEVADA PUBLIC SERVICE COMMISSION, NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS; ACCOMPANIED BY PAUL RODGERS, GENERAL COUNSEL; AND MARGO JAMES, DIRECTOR, CONGRESSIONAL RELATIONS

Mr. HARDY. Good morning, Mr. Chairman.

Mr. Chairman and members of the committee, my name is Heber P. Hardy. I am the second vice president of the National Association of Regulatory Utility Commissioners, commonly known as the NARUC.

I am also chairman of the Nevada Public Service Commission, and have served as a member of such commission since February 1971.

I am accompanied at the witness table today by Paul Rodgers, NARUC general counsel; and Margo James, NARUC, director of congressional relations.

Members of the NARUC appreciate your invitation to make their views known on S. 2970, a bill proposing the Truck Safety Act of 1978.

NARUC would like to offer qualified support for the principle embodied in S. 2970. The history of motor carrier safety regulation generally recognizes that motor carrier safety warrants special regulatory attention at both the Federal and State levels, to be distinct from the general highway safety regulations such as traffic and speed laws and periodic inspection appropriate for automobile and small commercial vehicles. Therefore, I say qualified support, because recent experience has also shown that the effectiveness of any program which seeks to divide nationwide regulatory responsibilities between Federal and State agencies is diminished in direct proporton to the pervasiveness of Federal control.

While the present bill would have the effect of revesting authority with the Secretary of Transportation over interstate motor carrier safety and enabling the States to share the responsibilities of enforcement, the legislation is deficient in two significant respects.

First, section 4, paragraph 3, pages 2 to 3, defines commerce in such a manner as to invoke the full power of the Federal Government under the commerce clause of the Constitution and, thereby, would bring within the scope of the bill the safety of operations of intrastate motor carriers, which is now under State jurisdiction.

Second, section 13, pages 15 through 17, injects excessive Federal control into the matter of State enforcement of the safety standards which may be promulgated under the bill.

Our first objection is based on the knowledge that once the full power of the commerce clause is invoked for the benefit of a Federal agency, there is virtually no activity which may not be touched by the agency. Thus, where section 4(3) extends the scope of the act to cover not only interstate transportation but that which affects trade, traffic, or transportation between a State and any place outside of such State, it is evident that the State commissions will lose much of their traditionally exclusive jurisdiction over intrastate activities.

Digitized by Google

There is no evidence that State regulation of intrastate motor carrier safety has produced a discreditable record.

The next paragraph of my prepared testimony makes a major point: The safety of long-distance interstate carriers cannot be controlled by one State alone. We thus support Federal efforts to regulate such operations.

I would also like to comment on the remarks of other witnesses regarding the joint Federal-State partnership for road inspections. We have eight inspectors in the State of Nevada, for instance, compared to one DOT inspector. However, there are no Federal inspectors in the State of Nevada at the present time since the one assigned recently died. We have periodically and faithfully cooperated with the DOT in road checks. As a matter of fact, while at the Wendover inspection DOT Inspector Bill Murphy passed away in the evening.

So the States do cooperate and do recommend that this cooperation be continued.

The second concern of the NARUC is that section 13 requires the Secretary of Transportation to fully monitor minute details of each State's enforcement program. There is a vast difference between setting uniform standards for motor carriers to be enforced by the States, and setting standards which regulate the States themselves.

Under the bill, a State would not only lose financial assistance were it unable to meet potentially arbitrary Federal guidelines, but would lose the very right to protect its citizens from a carrier's violation of Federal safety standards.

The NARUC believes that each State knows best the allocation of resources, qualifications for State employees, and level of inspection effort necessary to meet its individual needs. Too much Federal oversight may effectively preclude State participation.

I would like to bring to your attention the fact that all of the States, including Nevada, participate in the Federal-State program established under the Natural Gas Pipeline Safety Act of 1968. We feel the program is effective and think there's a good cooperative effort going on.

However, the Office of Pipeline Safety Operations, which promulgated the standards for the DOT, has correctly viewed this act as requiring only that it determine and promulgate substantive regulations for natural gas pipelines, not for State agency qualification. Its oversight of the State programs has been limited to insuring on a State-by-State basis that the standards are being enforced. This is carried out through periodic field investigations.

As I indicated earlier, all of the States as well as Puerto Rico and the District of Columbia are involved in enforcing natural gas pipeline safety standards.

I have included in my prepared testimony evidence of the impressive record which exists regarding the results of that cooperative effort.

However, the Federal Railroad Safety Act of 1970, another cooperative program modeled after the Natural Gas Pipeline Safety Act is a different story. The Federal Government has imposed such rigid standards that the results have not been nearly as good. Today, 8 years after the passage of that act, only 24 States are participating in the railroad safety program.

Digitized by Google

The primary reason for this has been the unduly burdensome qualifications required of State inspectors and the inflexibility of the FRA in its approach to State qualifications. They have rigid requirements for State track inspectors: 6 years of experience in the field or completion of a 2½-year training course.

A typical problem set forth in the prepared testimony is that of the State of Oregon, where a question as to the salary to be paid arose. The State finally worked out the problem, but after considerable difficulty, since the Federal Government required a considerably higher salary for that position than the one originally set by the State civil service commission. Thus one State was able to break down a barrier erected by the FRA to State participation; others have not.

Accordingly, the NARUC respectfully urges that section 13 of S. 2970 be revised to reflect the concept of the NARUC proposed Motor Carrier Safety Act which was introduced in the 91st Congress and in the 92d Congress.

A copy of the text is attached to my prepared testimony. In essence, the NARUC proposed act would require the DOT to establish minimum standards which the participating States would be required to adopt. The States would enforce these standards under a grant program, based upon their willingness to participate and cooperate with the minimum standards set forth in the act.

In conclusion, the NARUC looks forward to the opportunity to work with the committee in fashioning legislation which would strengthen the Federal-State partnership in the field of motor carrier safety.

We thank you very much for the opportunity to present our views to your distinguished committee.

The CHAIRMAN. Thank you for a fine statement.

In your statement you expressed the belief that the States are doing an adequate and effective job in motor carrier safety regulation. Now, this bill contains a provision which would authorize $100 million from the highway trust fund for State truck safety programs.

Is this additional funding necessary, if the States are already doing a good job in that area?

Mr. HARDY. I think the Congress must examine carefully what kind of "carrot" is offered the States to get their participation.

I believe there is some need for some Federal participation in funding.

Right now, for instance, our eight inspectors probably do much, much more as far as safety enforcement than the DOT does in the State of Nevada, because DOT simply doesn't have the inspectors there. And in fairness, I suppose we ought to be compensated somewhat for participating in road checks on a regular basis. Our inspectors will stop carriers for safety checks as well as commodity checks. When they find problems, if they are serious enough, they'll put the truck out of service, particularly if it's carrying hazardous materials. If they're not that serious, they file a report with the DOT or the ICC, whichever is appropriate, and a followup is done.

The NARUC position is that there ought to be grant-in-aid program of assistance to the States, but not necessarily $100 million. That seems like a lot of money to the folks out in Nevada.

35-692 O - 79 - 5

Digitized by Google

The CHAIRMAN. In how many States is the State utility commission agency responsible for regulating intrastate truck safety?

Mr. HARDY. Are you speaking of the economic regulatory commission?

The CHAIRMAN. The State utility commission, such as your commission. How many of those commissions in how many States are responsible for regulating intrastate truck safety?

Mr. HARDY. The large majority of States have this responsibility although some of them, such as New York and California, have independent departments of transportation. Nevada does not, although there's a possibility of having our DOT made a part of the highway department. Nevertheless the State legislature must resolve the problem of allowing the PSC to retain some of its safety jurisdiction if primary jurisdiction is to rest with the State DOT. At present Nevada enforces most motor carrier safety problems through the regulatory agency.

The CHAIRMAN. Is there an area in your data about the respective truck safety programs in each of the 50 States?

Mr. HARDY. I'm not totally familiar with the other States.

Mr. Rodgers, could you answer that?

Mr. RODGERS. We have a list of the States that are engaged in intrastate motor carrier safety regulation and we'd be glad to provide the tables, the information we have, for the committee. If the committee wishes more, we could send questionnaires to our member commissions.

The CHAIRMAN. Do you have information about the number of inspectors and how they're trained and this sort of information?

Mr. RODGERS. Yes, sir; we should have that information in our "1976 Annual Report on Utility and Carrier Regulation."

The CHAIRMAN. Would you supply that for the record[1] for us?

Now, in your statement, Mr. Hardy, you cited the Natural Gas Pipeline Safety Act as a model for Federal-State relationships. Yet that program has been severely criticized for its unevenness by some.

Now, how do you think that necessary nationwide uniformity may be best achieved without undue intrusion to the States?

Mr. HARDY. I'm not so sure that absolute uniformity is necessarily the highest goal, as you indicated earlier.

I can only speak from experience in the State of Nevada. The Natural Gas Safety Act has worked extremely well. They don't have inspectors in the State. We do. Our man attends seminars and training sessions on a cooperative basis. I think it's working out extremely well. I also think that, with a stepped-up program it would work extremely well for motor carrier safety regulations.

I can't respond to the unevenness of enforcement of natural gas safety programs because I'm not familiar with that particular problem.

The CHAIRMAN. NARUC does not have a firm position on this issue of the $100 million to be provided for the State truck safety program.

Mr. HARDY. The NARUC has taken the position that a grant-in-aid program, as set forth in the NARUC bill, would be appropriate. Since the States would assist the Federal Government in carrying out its functions, the States should receive Federal financial assistance.

---

[1] See p. 71.

Digitized by Google

The CHAIRMAN. Now, getting back to these checks that were made, for example, in Wendover, Utah, and St. George, Utah. Both of them are outside your State, but both of them have an impact there, because those highways cross through Nevada.

Did any of your inspectors work in cooperation with those tests?

Mr. HARDY. The Wendover operation I would suspect was carried out on the Nevada side, because our inspectors were there.

The CHAIRMAN. I see. From the Nevada side. And you had your State inspectors there.

Mr. HARDY. Yes; I believe we had two out of the eight Nevada inspectors there.

The CHAIRMAN. What about the Utah one being on the Utah side, and then you had no inspectors there.

Mr. HARDY. We did not participate. We very often participate in southern Nevada on interstate 15. I believe we do this at least twice a year and sometimes more during a period of need. It's been a very cooperative program. The DOT sets up a proposed schedule for these road checks, and our inspectors make sure they're there. Our inspectors are very positive about the cooperative approach in field enforcement. I would to a large degree support the statement of the previous witness, that a greater emphasis ought to be on field enforcement.

The CHAIRMAN. All right. Thank you very much, Mr. Hardy, Mr. Rodgers.

[The statement follows:]

STATEMENT OF THE NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

Mr. Chairman and members of the committee, my name is Heber P. Hardy, and I am the Second Vice President of the National Association of Regulatory Utility Commisioners, commonly know as the "NARUC." I am also the Chairman of the Nevada Public Service Commission and have served as a member of such Commission since February 15, 1971.

I am accompanied at the witness table today by Paul Rodgers, NARUC General Counsel, and Margo James, NARUC Director of Congressional Relations.

The NARUC is a quasi-governmental nonprofit organization founded on March 5, 1889. Within its membership are the governmental agencies of the 50 States and of the District of Columbia, Puerto Rico and the Virgin Islands engaged in the regulation of utilities and carriers. Our chief objective is to serve the consumer interest by seeking to improve the quality and effectiveness of public regulation in America. Significantly, the vast majority of NARUC members are engaged in the safety regulation of motor carriers.

The members of the NARUC appreciate your invitation to make their views known on S. 2970, a bill proposing the Truck Safety Act of 1978.

The NARUC would like to offer qualified support for the principle embodied in S. 2970. The history of motor carrier safety reguiation generally recognizes that motor carrier safety warrants special regulatory attention at both the Federal and State levels to be distinct from general highway safety regulations such as traffic and speed laws nad periodic inspection appropriate for automobiles and small commercial vehicles. Therefore, I say "qualified support" because recent experience has also shown that the effectiveness of any program which seeks to divide nationwide regulatory responsibilities between Federal and State agencies is diminished in direct proportion to the pervasiveness of Federal control.

While the present bill would have the effect of revesting authority in the Secretary of Transportation over interstate motor carrier safety and enabling the States to share the responsibilities of enforcement, the legislation is deficient in two significant respects. First, Section 4(3), pages 2–3, defines "commerce" in such a manner as to invoke the full power of the Federal Government under the Commerce Clause of the Constitution and, thereby, would bring within the scope of the bill the safety of operations of intrastate motor carriers which is now

Digitized by Google

under State jurisdiction. Second, Section 13, pages 15–17, injects excessive Federal control into the matter of State enforcement of the safety standards which may be promulgated under the bill.

FEDERAL SAFETY JURISDICTION SHOULD BE RESTRICTED TO INTERSTATE MOTOR CARRIERS

Our first objection is based on the knowledge that once the full power of the Commerce Clause is invoked for the benefit of a Federal agency, there is virtually no activity which may not be touched by that agency. Compare: *United States* v. *Employing Plasterers*, 347 U.S. 186, 74 S. Ct. 452, 98 L. Ed. 618 (1954), and *Hospital Building Co.* v. *Rex Hospital Trustees*, 425 U.S. 738, 96 St. Ct. 1848, 48 L. Ed. 2d 388 (1976).

Thus, where Section 4(3) extends the scope of the Act to cover not only interstate transportation but also that which "affects trade, traffic, or transportation between a State and any place outside of such State", it is evident that the State commissions will lose much of their traditionally exclusive jurisdiction over intrastate activities. There is no evidence that State regulation of intrastate motor carrier safety has produced a discreditable record.

I suspect the real problem, the problem most effectively solved by Federal legislation, is the safety of long distance, interstate trucking operations over which the States are unable to exercise full control. For example, maximum hours, qualifications and working conditions of interstate drivers, as a truck moves from State to State, cannot be completely controlled by one State alone. To the extent the bill addresses these issues, the NARUC lends its support. However, the NARUC strongly urges that the language be redrafted to restrict Federal jurdisdiction to interstate operations alone.[1]

THE PROPOSED FEDERAL-STATE PARTNERSHIP FOR INTERSTATE MOTOR CARRIER SAFETY SHOULD BE STRENGTHENED

The second concern of the NARUC is that Section 13 requires the Secretary of Transportation to fully monitor minute details of each State's enforcement program. There is a vast difference between setting uniform standards for motor carriers, to be enforced by the States, and setting standards which regulate the States themselves. Under the bill a State would not only lose financial assistance were it unable to meet potentially arbitrary Federal guidelines, but would lose the very right to protect its citizens from a carrier's violation of Federal safety standards.

The NARUC believes that each State knows best the allocation of resources, qualifications for State employees, and level of inspection effort to meet its individual needs. Too much Federal oversight may effectively preclude State participation. Perhaps this point is best illustrated through comparison of two existing Federal/State cooperative safety programs.

Under the Natural Gas Pipeline Safety Act of 1968, as amended, 49 U.S.C. § 1671, *et seq.*, the Secretary of Transportation is required to issue Federal standards for natural gas pipelines and, upon agreement with the States, allow for State agency enforcement. The Office of Pipeline Safety Operations, which promulgated the Standards for DOT, has correctly viewed this Act as requiring only that it determine and promulgate substantive regulations for natural gas pipelines, not for State agency qualification. Its oversight of the State programs has been limited to insuring, on a State by State basis, that the standards are being enforced. This is accomplished through periodic subjective inspection in the field, rather than through rigid Federal guidelines. If there is doubt that a State is performing adequately, its participation may be terminated after hearing.

---

[1] This amendment may be accomplished by:
(1) Striking from Section 4(3), page 2, line 24, and lines 1–2, page 3, the Following: ", or which affects trade, traffic, or transportation between a State and any place outside of such State";
(2) Striking from Section 4(4), page 3, line 4, "a business affecting"; and
(3) Striking from Section 4(4), page 3, line 6, "business" and inserting in lieu thereof "commerce".
Also, the following sentence should be added at the end of Section 18, page 19, line 4: "Nothing in the Act shall be construed to interfere with the exclusive exercise by each State of the power of safety regulation of intrastate commerce by motor carriers on the highways thereof." Note: Similar language is contained in Part II of the Interstate Commerce Act. 49 U.S.C., Sec. 302(b)(1).

Digitized by Google

In 1977 all of the States, Puerto Rico and the District of Columbia were involved in enforcing natural gas pipeline safety standards. This required a State commitment of $5 million. By 1982 these State expenditures are expected to increase to $8 million. During the year State inspectors conducted over 14,000 inspection of more than 2,800 gas operations resulting in the correction of over 4,200 deficiencies.

Under the Federal Railroad Safety Act of 1970, as amended, 45 U.S.C. 431–441, which was modeled after the Natural Gas Pipeline Safety Act, the Federal Railroad Administration has promulgated just such rigid standards as would be imposed under section 13. The result has been disastrous. Today, eight years after the passage of that Act, only 24 States are participating in the railroad safety program. The primary reason for this has been the unduly burdensome qualifications required of State inspectors and the inflexibility of the FRA in its approach to State qualification.

Before a State track inspector is considered qualified to perform any independent inspections, he must have 6 years of experience in the field or complete a 2½ year training course! While we consider these requirements unreasonable on their face, the argument advanced by the FRA is that the program requires uniformity and the qualifications remain in effect.

A good example of the problems this has caused comes from Oregon which became a participant in 1974. The Rail Safety Division in that State found that in order to attract persons meeting the FRA qualifications for State track inspectors it would have to offer an annual salary of between $19,000–$20,000. However, the State Civil Service Commission regulation placed a limit on salaries for such a position of $14,000–$15,000. This impasse was overcome only after extensive negotiations between the two State agencies resulting in the reclassification of the job to the level of professional civil engineer. Thus, one State was able to break down the barrier erected by the FRA to State participation—others have not.

Accordingly, the NARUC respectfully urges that Section 13 of S. 2970 be revised to reflect the concept of the NARUC proposed Motor Carrier Safety Act which was introduced in the 91st Congress [2] and the 92nd Congress [3]. A copy of the text appears in the Appendix to this Statement.

In conclusion, the NARUC looks forward to the opportunity of working with the Committee in the fashioning of legislation which will strengthen the Federal-State partnership in the field of motor carrier safety.

Thank you for your attention.

EXTRACT FROM THE 83RD NARUC ANNUAL CONVENTION PROCEEDINGS PAGES 798–806 (1971)

MOTOR CARRIER SAFETY ACT

[H.R. 3322 by Rooney (D.–Pa.); S. 1912 by Magnuson (D.–Wash.); 92nd Congress]

Justification

The Highway Safety Act of 1966 (23 U.S.C., Secs. 401 et seq.; 80 Stat. 731) provides for grants-in-aid to assist a State in conducting a highway safety program which meets Federal minimum standards. The Governor of the State is responsible for administering the program, including the determination as to which State agencies are to participate therein and receive Federal funds.

The Act is drawn in broad terms and applies to all vehicles that travel the highways.

However, the history of motor carrier safety regulation generally recognizes that motor carrier safety warrants special regulatory attention at both the Federal and State levels to be distinct from general highway safety regulations such as traffic and speed laws and periodic inspection appropriate for automobiles and small commercial vehicles.

The enactment of the proposed Motor Carrier Safety Act would provide Federal grants-in-aid directly to the State commissions in administering their motor

[2] Motor Carrier Safety Act of 1969—S. 1920 by Magnuson (D–Wash.); H.R. 12149 by Rooney (D–Pa.); H.R. 12266 by Friedel (D–Md.); 81st NARUC Annual Convention Proceedings, pp. 178–185 (1969).

[3] Motor Carrier Safety Act—H.R. 3322 by Rooney (D–Pa.); S. 1912 by Magnuson (D–Wash.); 83rd NARUC Annual Convention Proceedings, pp. 798–806 (1971).

Digitized by Google

carrier safety programs and in enforcing Federal and State safety laws concerning highway transportation. The grants-in-aid would be paid by the Department of Transportation to the State commissions whose safety and enforcement programs meet minimum Federal standards.

Furthermore, the adoption of the proposed Act would provide financial assistance to further implement Public Law 89–170 (79 Stat. 648) which, as amended by the law creating the Department of Transportation, authorized the Department to make cooperative agreements with the various States to enforce the safety laws and regulations of the Federal and State governments concerning highway transportation. Pursuant to Public Law 89–170, the agencies of 48 States have executed cooperative agreements with DOT to enforce such safety laws.

The proposed Motor Carrier Safety Act is the same as the NARUC proposed Motor Carrier Safety Act of 1969 which was introduced in the Ninety-first Congress as S. 1920 by Magnuson (D.–Wash.), H.R. 12149 by Rooney (D.–Pa.), and H.R. 12266 by Friedel (D.–Md.). Representative Rooney on February 2, 1971, automatically reintroduced this legislation in the Ninety-second Congress as H.R. 3322.

The text of the proposed Act reads as follows:

A BILL to amend the Interstate Commerce Act to provide assistance to the States in establishing, developing, and administering State motor carrier safety programs to insure the safe operation of commercial motor vehicles, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. This Act may be cited as the "Motor Carrier Safety Act."

SEC. 2. Part II of the Interstate Commerce Act, as amended, is amended by inserting after section 205 thereof a new section 205a as follows:

"Motor Carrier Safety

"SEC. 205a(1). POLICY, PURPOSE AND ASSISTANCE TO THE STATES.

"(A) The Congress declares that public policy requires measures to reduce the causes of death, injury and damage resulting from the operation of commercial motor vehicles in interstate or foreign commerce on the Nation's highways, and finds that a program of joint Federal-State cooperation in the enforcement of safety regulations pertaining to such vehicles is needed to achieve this end.

"(B) In furtherance of this policy the Secretary is authorized to cooperate with appropriate State commissions in establishing, developing and administering a State motor carrier safety program designed to insure the safe operation of commercial motor vehicles on the highways by regulating the safety of operation and equipment, and the qualifications and maximum hours of service of employees, and in providing for the effective enforcement of such programs.

"SEC. 205a(2). DEFINITIONS.

"As used in this section—

"(A) The term 'Secretary' means the Secretary of Transportation.

"(B) The term 'motor carrier' means any person operating in commercial service in interstate or foreign commerce on the public highways a motor vehicle with six or more wheels and (i) a gross weight in excess of 10,000 pounds or (ii) designed to transport more than one ton of cargo or more than six passengers including the driver.

"(C) The term 'motor carrier safety program' means a range of activities specifically designed to insure the safe operation of motor carriers on the public highways, including qualification and maximum hours of service of employees, and safety of operation and equipment.

"(D) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

"(E) The term 'State commission' means the State department, commission, agency, officer, or official authorized by State law to adopt or enforce regulations governing the safety of operation of motor carriers.

"(F) The term 'national organization of the State commissions' means the national organization of the State commissions referred to in section 202(b) and 205(f) of the Act.

"SEC. 205a(3). FEDERAL ASSISTANCE FOR MOTOR CARRIER SAFETY PROGRAMS.

"The Secretary is authorized to make grants for the purpose of establishing, increasing and maintaining motor carrier safety programs administered by

Digitized by Google

State commissions to reduce the causes of death, injury and property damage on the highways, and to develop Federal-State cooperation in the conduct of these programs.

"SEC. 205a(4). MINIMUM PROGRAM.

"The Secretary shall establish by order a minimum motor carrier safety program to be used in determining the eligibility of a State to receive grants under this section. The safety aspect of such motor carrier programs may be based, to the extent the Secretary finds appropriate, on existing motor carrier safety regulations and hazardous material regulations.

"SEC. 205a (5). MINIMUM MOTOR CARRIER REGULATIONS AND ENFORCEMENT.

"(A) The Secretary shall formulate minimum motor carrier safety regulations, minimum hazardous material regulations and minimum standards for the enforcement of such regulations, after consultation and cooperation with the State commissions, the national organization of the State commissions, and the National Motor Carrier Safety Advisory Committee provided for in subsection 205a(8)(A), which he shall promulgate within two years after this Act takes effect. Five years after this Act takes effect, the State commissions which have adopted regulations at least equal to those minimum motor carrier safety regulations and minimum hazardous material regulations and have established enforcement procedures at least equal to those minimum enforcement standards, may receive grants under this section unless the Secretary finds for good cause shown, and publishes his reasons for such finding, that a later effective date is in the public interest. The Secretary may, for good cause and after consultation and cooperation with the above parties, by order amend or revoke any such minimum motor carrier safety regulation, hazardous material regulation or enforcement standard established by him under this section.

"(B) A State commission may adopt such additional or more stringent safety regulations applicable to motor carriers as are not incompatible with the minimum motor carrier safety regulations and minimum hazardous material regulations promulgated and adopted by the Secretary pursuant to subsection 205a (5)(A), if such regulations adopted by the State commission are reasonable, do not constitute an undue burden on interstate commerce, and are required to better protect the public safety.

"SEC. 205a(6). GRANT AUTHORIZATION.

"(A) The Secretary is authorized to make grants to State commissions for a period of two years after this Act takes effect in the amount up to 100 per centum of the cost of planning, developing, and establishing minimum motor carrier safety programs in States requiring such assistance, and thereafter, grants in an amount not to exceed 50 per centum of the cost of maintaining and further developing effective and continuing motor carrier safety programs. The Secretary shall make the grants authorized by this subsection only upon application by the State commission. Whenever a State shall have two or more State commissions, as determined by the chief legal officer of the State, the State shall organize a 'Governor's Council' composed of the Governor, or his representative, and one representative of each State commission, each of whom shall have one vote, and decisions of the Council shall be by majority vote. Each grant application shall describe the long range program proposed by the applicant State to carry out the basic purposes set forth in this section and shall be in such form and contain such additional information as the Secretary may require. The Secretary may approve an application for grant only to State commission which:

"(1) have a State commission or commissions, and in the event of two or more State commissions, the motor carrier safety program for such State shall be coordinated by and through the Governor's Council;

"(2) have on file with the Secretary an approved motor carrier safety program with regulations, including enforcement procedures, conforming to the purposes and requirements of this section;

"(3) submit an annual work plan satisfactory to the Secretary which shall disclose the total estimated cost of the annual program;

"(4) have regulations which, in the Secretary's determination, do not constitute an unreasonable burden on motor carriers;

"(5) provide assurance satisfactory to the Secretary that Federal funds made available under this section will be so used as to supplement and, to the extent practical, increase the amount of funds that the applicant would make available for motor carrier safety in the absence of such Federal funds; and

Digitized by Google

"(6) provide assurance satisfactory to the Secretary that its expenditure of State funds not derived from Federal sources, for its motor carrier safety program, will be maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this section.

"(B) The Secretary shall not disapprove any State's application under this subsection without first providing the State commission concerned reasonable notice and opportunity in a hearing to present its views. Each State commission receiving a grant under this section shall submit an annual report on its program containing such information as the Secretary requires.

"(C) Upon application by the national organization of the State commissions submitted on or before September 30th of any calendar year, the Secretary shall pay out of the funds appropriated pursuant to this Act, or other available funds, the sum of $20,000, plus such additional sums as he deems justified, to such national organization, to pay, during the ensuing calendar year, the reasonable cost of coordinating the activities of the State commissions, to assist them in the maintenance and improvement of motor carrier safety programs, and to render assistance to such commissions in other regulatory matters.

"(D) Funds authorized to be appropriated for each fiscal year to carry out this section shall be used to aid the State commissions to conduct the motor carrier safety programs approved in accordance with such section and shall be apportioned by the Secretary among the several States on or before January 1 next preceding the commencement of each fiscal year. Such funds for each fiscal year shall be apportioned among the several States in the following manner:

"One-half in the ratio which the population of each State bears to the total population of all the States as shown by the latest available Federal census; and

"One-half in the ratio which motor carriers use the public highways within the State, based on the reportable miles operated by them in the State for motor fuel tax purposes or on the other appropriate criteria, bears to the total motor carrier use of the public highways within all the States;

"*Provided*, That no State shall receive less than one-fourth of 1 per centum of each year's apportionment or $50,000, whichever is the greater.

"(E) On or before January 1 next preceding the commencement of each fiscal year, the Secretary shall certify to each State commission the funds which he has apportioned hereunder to each State for such fiscal year. As soon as practicable after the apportionment has been made for each fiscal year, the State commission of any State desiring to obtain financial assistance shall submit to the Secretary for his approval the State's motor carrier safety program for the use of the funds apportioned for such fiscal year. The Secretary shall act on each State program as soon as practicable after it has been submitted. The Secretary may approve any program in whole or in part. His approval of any program shall be deemed a contractual obligation of the Federal Government for the payment of its apportioned contribution thereto. If a State commission elects not to accept the funds apportioned to it, such funds shall be reapportioned in accordance with the above formula, among the other States whose State commissions are eligible to receive Federal funds under this section.

"(F) The Secretary may, in his discretion, from time to time as work progresses make payments to a State commission for the annual program costs incurred by it. These payments shall at no time exceed the Federal share of the program costs incurred to the date of the voucher covering such payment. After completion of an annual program and approval of the final voucher by the Secretary, the State commission shall be entitled to payment out of the appropriate funds apportioned to it of the unpaid balance of the Federal share on account of such program. Such payments shall be made to such official or officials or depository as may be designated by the State commission and authorized under the laws of the State to receive public funds of the State.

"(G) State personnel, compensated in whole or in part from Federal funds received under this section, shall be authorized, while engaged in the conduct of the motor carrier safety program, to enforce the safety and economic laws of the State concerning highway transportation.

"Sec. 205a(7). *Research, Training and Development.*

"In order to encourage training, research and development in the motor car- r ' safety field, the Secretary is authorized to conduct research and develop- 1 it and in addition is authorized—

Digitized by Google

"(A) to make continuing studies and undertake approaches, techniques, systems, equipment, and devices to improve motor carrier safety;

"(B) to enter into contracts with public agencies, institutions of higher education, private organizations and individuals to conduct research, demonstration, or special projects pertaining to the purposes described in this section, including the development of new or improved approaches, techniques, systems, equipment and devices to improve motor carrier safety;

"(C) to provide instructional assistance to the States for the programs authorized under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this subsection;

"(D) to carry out a program of collection and dissemination of information obtained by the Department or other Federal agencies, State and public agencies, institutions of higher education, or private organizations engaged in projects under this subsection, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve motor carrier safety; and

"(E) to make grants to the national organization of the State commissions, or other national organizations representing State governments or State officials, to pay up to 50 per centum of the costs of providing training to officials or employees of State commissions relative to the conduct of their motor carrier safety programs.

"SEC. 205a(8). NATIONAL MOTOR CARRIER SAFETY ADVISORY COMMITTEE; COOPERATION.

"(A) There is established in the Department of Transportation a National Motor Carrier Safety Advisory Committee, composed of the Secretary or an officer of the Department appointed by him, who shall be Chairman, the Federal Highway Administrator, and 20 members appointed by the Secretary, five of whom shall be State commissioners nominated by the national organization of the State commissions. The remainder of the appointed members, having due regard for the purposes of this subsection, shall be selected from among representatives of public and private interests, contributing to, affected by, or concerned with the conduct of motor carrier safety programs, including national organizations of motor carrier vehicle manufacturers, owners, and operators, as well as research scientists and other individuals who are expert in this field. Members of the Committee who are not officers or employees of the United States shall, while attending meetings or conferences of such Committee or otherwise engaged in the business of such Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States for any purpose.

"The National Motor Carrier Safety Advisory Committee shall advise, consult with, and make recommendations to, the Secretary on matters relating to the activities and functions of the Department relative to the conduct of motor carrier safety programs. The Committee is authorized (1) to review training, research or development projects or programs submitted to or recommended by it relative to the conduct of motor carrier safety programs and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to the strengthening of such motor carrier safety programs in the public interest; and (2) review, prior to issuance, regulations and standards proposed to be issued by order of the Secretary under the provisions of subsections 205a (4) and 205a (5) of this section and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

"The National Motor Carrier Safety Advisory Committee shall meet from time to time as the Secretary shall direct, but at least once each year.

"(B) The Secretary shall provide such staff and facilities to the National Motor Carrier Safety Advisory Committee from among the personnel and facilities of the Department of Transportation as are necessary to carry out the functions of such Committee.

"(C) The Secretary is authorized and directed to assist, co e and con with other Federal departments and agencies, State and loca gov

Digitized by Google

vate industry, the national organization of the State commissions, and other interested parties, in order to carry out the provisions of this section.

"SEC. 205a(9). ADMINISTRATION AND REPORTING.

"(A) The Secretary shall carry out the provisions of this section through the Federal Highway Administration.

"(B) Nothing in this section shall prohibit the Secretary from enforcing any other provisions of the Interstate Commerce Act relating to motor carriers in those States which have not adopted the minimum motor carrier safety regulations and the minimum hazardous materials regulations.

"(C) The Secretary shall submit to the President for transmission to the Congress on or before January 1 of each year a report on the activities carried on pursuant to the provisions of this section during the preceding full fiscal year and recommendations for future legislation, if any.

"SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

"(A) For the purpose of carrying out section 205a(6) of the Interstate Commerce Act, there is hereby authorized to be appropriated the sums of $---------- for the fiscal year ending June 30, 1972, $---------- for the fiscal year ending June 30, 1973, and for the succeeding fiscal years such sums as the Congress may hereafter authorize. The unexpended balance of sums appropriated under this section for any fiscal year shall remain available for expenditure during the next succeeding fiscal year in addition to amounts otherwise available to carry out this section in such year.

"(B) For the purpose of carrying out section 205a(7) of the Interstate Commerce Act, there is hereby authorized to be appropriated to remain available until expended the sums of $---------- for the fiscal year ending June 30, 1972; and $---------- for the fiscal year ending June 30, 1973.

Digitized by Google

[The following information was referred to on p. 62:]

Table 74 - REGULATION OF MOTOR PASSENGER CARRIERS

AGENCY	Scope of Agency regulation of motor passenger carriers - Common Carriers: Entry	Operating Territory	Abandonment	Rates	Accounting	Service	Safety	Construction	Security Issues	Mergers and Acquisitions	Insurance	Reporting	Interstate Motor Carrier Registration	Contract Carriers: Entry	Operating Territory	Abandonment	Rates	Accounting	Service	Safety	Construction	Security Issues	Mergers and Acquisitions	Insurance	Reporting	Interstate Motor Carrier Registration
ICC	X	X	X	X	X	X			X	X	X	X		X	X	X	X	X	X			X	X	X	X	
ALABAMA PSC	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X				X	X	X	X
ALASKA TC	X	X	X	X	X	X	X			X	X	X	X					X1/						X	X1/	
ARIZONA PSB 12/																										
ARIZONA CC	X	X	X	X	X	X	X	X1/	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X
ARKANSAS TC	X	X	X	X		X	X			X	X	X	X	X	X	X	X		X			X	X	X	X	X
CALIFORNIA PUC	X	X	X	X	X	X			X	X	X	X		X	X								X	X		
CANADIAN TC																										
COLORADO PUC	X	X	X	X	X	X	X		X	X	X	X	X	X	X		X	X	X		X	X	X	X	X	X
CONNECTICUT PUCA	X	X	X	X	X	X	X		X	X	3/	X	4/	X	X	X	X	X	X		X	X	X	X	3/	4/
DELAWARE PA	X	X	X	X	X	X	X	X	X1/	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	
FLORIDA PSC	X	X	X	X	X	X	X			X	X	X	X	X	X			7/	X	X			X	X	X	X
GEORGIA PSC		X	X	X	X	X	X		X	X	X	X	X		X	X	X	X	X	X		X	X	X	X	X
HAWAII PUC	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X			X	X	X	X
IDAHO PUC	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X			X	X	X	X
ILLINOIS CC	X	X	X	X	X	X			X	X	X	X		X	X	X	X	X	X	X			X	X	X	X
INDIANA PSC		X	X			X	X				X	X			X	X		X	X				X	X		X
IOWA TRB	X	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X				X	X		X
KANSAS SCC	X	X	X	X	X	X	X				X	X	X1/	X	X	X	X	X	X				X	X	X1/	X
KENTUCKY DOT 14/	X	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X				X	X	X	X
LOUISIANA PSC	X	X	X	X	X	X			X	X	X	X	X													
MAINE PUC	X	X	X	X	X	X	X			X	X	X	X	X	X		X	X	X			X	X	X	X	
MARYLAND PSC 5/	X	X	X	X	X	X	X		X	X	X	X		X	X	X	X	X	X				X	X	X	
MASSACHUSETTS DPU	X	X	X	X	X	X	X			X	X	X		X	X	X	X	X	X							
MICHIGAN PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X
MINNESOTA PSC	11/	X	X	X	X	11/	11/			X	11/	11/	11/	11/	X	X		7/	11/	11/	11/			X	11/	11/	11/
MISSISSIPPI PSC		X	X	X	X	X	X			X	X	X	X											X			
MISSOURI PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X					X	X		X
MONTANA PSC	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X					X	X	X	X
NEBRASKA PSC	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X					X	X	X	X
NEVADA PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X
NEW HAMPSHIRE PUC	X	X	X5/	X	X	X	X		X	X	X	X		X	X			X	X			X	X	X	X		
NEW JERSEY BPUC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X
NEW MEXICO SCC	X	X	X	X		X					X	X		X	X	X	X							X	X		X
NEW YORK DOT	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X				X	X		
NORTH CAROLINA UC	X	X	X	X	X	X	X	X	X	X	X	X5/	X	X	X	X	X	X	X			X	X	X	X5/	X
NORTH DAKOTA PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X
OHIO PUC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X
OKLAHOMA CC	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X	X					X	X	X	X
OREGON PUC	X	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X					X	X	X	X
PENNSYLVANIA PUC	X	X	X	X	X	X	X		X	X	X	X		X	X	X	X	X	X			X	X	X	X		
PUERTO RICO PSC	X	X	X	X	X	X	X		X	X	X	X		X	X	X	X	X	X			X	X	X	X		
QUEBEC																											
RHODE ISLAND PUC	X	X		X			X			X			X	X	X		X		X				X			X
SOUTH CAROLINA PSC	X	X		X		X	X			X	X	X	X	X	X		X		X				X	X	X	X
SOUTH DAKOTA PSC	X	X	X	X	X	X	X			X	X	X	X	X	X		X	X2/	X				X	X	X	X
TENNESSEE PSC	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X			X	X	X	X	X
TEXAS RC	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X			X	X	X	X	X	X
UTAH PSC	X	X	X	X	X	X	13/	X		X	X	X	X	X	X	X	X	X	X	13/	X		X	X	X	X	X
VERMONT AT 5/ 15/		X	X	X	X	X	X		X	X	X	X															
VIRGIN ISLANDS PSC	X	X	X	X	X	X	X	X	X	X	X	X	X														
VIRGINIA SCC 5/	X	X	X	X		X			X	X	X	X	X	X	X	X	X	X	X			X5/	X	X	X	X	X
WASHINGTON UTC	X	X	X	X	X	X	X		X5/	X	X	X	X	X	X	X	X	X	X				X	X	X	X	
WEST VIRGINIA PSC	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X					X	X	X	X
WISCONSIN PSC	X	X	X	X	X	X					X	X	X														
WYOMING PSC	X	X	X			X				X	X	X	X	X	X	X		X							X		

1/ May require filing of operating statement and other reports.
2/ For ambulances only.
3/ Filed with Connecticut Motor Vehicle Department.
4/ Regulate only passenger carriers domiciled outside Connecticut who operate over regular scheduled routes.
5/ Annual reports are required to be filed showing intrastate operations.
6/ Regular route carriers.
7/ Contract (charter) carrier rates filed with Agency. Agency prescribes minimum rates upon petition.
8/ Contract carriers - charter and sightseeing.
9/ No jurisdiction if securities subject to SCC regulations.
10/ While motor passenger carriers come under regulation by this Board under certain circumstances, no such circumstances exist currently.
11/ A function of Minnesota Department of Transportation-Enforcement - Effective 11/16/76.
12/ Does file copy of contract(s).
13/ Under jurisdiction of Utah State Department of Transportation effective 7/1/75.
14/ Bureau of Vehicle Regulation.
15/ Vermont Agency of Transportation, Department of Bus, Rail, Waterways and Motor Carrier Services, State Office Bldg., Montpelier, Vermont 05602.

Digitized by Google

106

Table 75 - NUMBER OF MOTOR PASSENGER CARRIERS UNDER AGENCY JURISDICTION

AGENCY	Motor Passenger Carriers					
	Common Carriers			Contract Carriers		
	Number of Carriers	Number of Vehicles	Citation of Jurisdictional Authority	Number of Carriers	Number of Vehicles	Citation of Jurisdictional Authority
ICC	1,118		49 U.S.C. 301 et seq.	43		49 U.S.C. 301 et seq.
ALABAMA PSC	234		Title 48, Code of Ala.	73		Title 48, Code of Alabama
ALASKA TC	123	1,300	AS 42.15			Not regulated
ALBERTA PUB						
ARIZONA CC	270.	9,446	ARS. 40-601, General Orders	48	244	ARS, 40-601, General Orders
ARKANSAS TC	32		Act 397-1955			
CALIFORNIA PUC	133	1,400	Public Utilities Act	450	2,800	Charter Party Carriers Act
CANADIAN TC						
COLORADO PUC	136		Sec. 40-1-101 CRS 1973	5		Sec. 40-11-101 CRS 1973
CONNECTICUT PUCA	169 3/	2,483		207 3/	803	
DELAWARE TA	34	206	59 Del. Laws, Ch. 393	1	1	59 Del. Laws, Ch. 393
FLORIDA PSC	90	2,979	F.S. 323.02, 323.03 & 323.04	1	11/	F.S. 323.02 and 323.03
GEORGIA PSC	43 2/		Ga. Code, Ch. 68-6			Ga. Code, Ch. 68-5-6
HAWAII PUC 14/	258	5,735	Ch. 271, HRS	2	3	
IDAHO PUC	38		Ch. 8, Title 61, Idaho Code	22 10/		Ch. 8, Title 61, Idaho Code
ILLINOIS CC	39		Ill. Rev. Stat., Ch. 111 2/3, Sec. 1. et seq.			
INDIANA PSC	95		Ind. Code 1971, 8-2-7-1	2		Ind. Code 1971, 8-2-7-1
IOWA TRB	16 3/		C.H. 325, Town Code 1975	0	0	
KANSAS SCC	18	1,778	Kan. Stats. Ann., Ch. 66	5	56	Kan. Stats. Ann., Ch. 66
KENTUCKY DOT 13/	498 11/	2,466	KRS 281.600			KRS 281.600
LOUISIANA PSC	30		Constitutional and Statutory			
MAINE PUC	20		35 M.R.S.A. Chapter 97	30		
MARYLAND PSC	79	3,376	Article 78			
MASSACHUSETTS DPU	186	4,696	Ch. 159 A, Mass. General Laws	155	2,087	Ch. 159 A, Mass. General Laws
MICHIGAN PSC	151	2,300	Act 254, P.A. 1933, Amended	7	35	Act 254, P.A. 1933
MINNESOTA PSC	36		Minn. Statutes, Ch. 221	134		Minn. Statutes, Ch. 221
MISSISSIPPI PSC	7					
MISSOURI PSC	39		Ch. 390 RSMo.	3		Ch. 390 RSMo.
MONTANA PSC			MAC-8-101-8-129			MAC-8-101-8-129
NEBRASKA PSC	72 4/	350	75-301 et seq.			
NEVADA PSC	296		Rev. Revised Stats., Ch. 706	7		Rev. Revised Stats., Ch. 706
NEW HAMPSHIRE PUC	67		RSA 376	34		RSA 376
NEW JERSEY BPUC	401 4/	4,871 4/	RJSA 48:2-1 et seq.	4/	4/	RJSA 48:2-1 et seq.
NEW MEXICO SCC	81		N.M. Motor Carrier Act (64-27-1) et seq.	3		N.M. Motor Carrier Act (64-27-1) et seq.
NEW YORK DOT	120		Trans, Law and Title 17, NYCRR	450		Trans. Law and Title 17, NYCRR
NORTH CAROLINA UC	66		N.C. Gen. Stat., Ch. 62-3(23)a.3,4	6		N.C. Gen. Stat., Ch.62-3(23)a.3,4
NORTH DAKOTA PSC	36 12/	1,550 12/	49-0701 NDCC 1/	0	0	
OHIO PUC	65 3/	3,263 17/	Title 49, Ohio Revised Code	8 3/	46	Title 49, Ohio Revised Code
OKLAHOMA CC						
OREGON PUC	37 2/	224	ORS, Ch. 767	1 2/	3	ORS, Ch. 767
PENNSYLVANIA PUC	663 5/		Pa. Public Utility Law			
PUERTO RICO PSC	12,619	21,426				
QUEBEC						
RHODE ISLAND PUC	4		Title 39, Ch. 13, Sec. 1-17			
SOUTH CAROLINA PSC	333 4/	493	S.C.Code Ann., Sec. 58-1401 et seq. (1960) Amended			
SOUTH DAKOTA PUC	1,132 2/	3,560	S.D.C.L. 49-28			
TENNESSEE PSC	160 4/		65-1501 et seq.			
TEXAS RC			Tex. Rev. Civil Stats. Ann. (1925) Article 911(a)			
UTAH PSC	77		Utah Code, Sec. 54-6-4			Utah Code, Sec. 54-6-8
VERMONT AT 16/	8		Title 30, VSA Sec. 203			
VIRGIN ISLANDS PSC	3	27	Title 30, VIC, Sec. 1			
VIRGINIA SCC	59		Va. Code, Title 56, Ch. 12	123 7/		Va. Code, Title 56, Ch. 12.0 & 12.4
WASHINGTON UTC	47 3/		Title 81, Rev. Code of Washington			
WEST VIRGINIA PSC	125 4/	2,500	Chapter 24-A, W. Va. Code			
WISCONSIN PSC	68		Chapter 194, Wisconsin Statutes			
WYOMING PSC	13		Sec. 37-145, Wyoming Statutes 1957	95 8/		Sec. 37-138, Wyoming Statutes 1957

1/ As of 7/1/75.
2/ Intrastate.
3/ Charter Carriers.
4/ Total motor passenger carriers.
5/ Taxi -427; bus-236.
6/ Footnote not used.
7/ Sightseeing.
8/ 13 passenger and 20 taxi.
9/ Includes moto taxi, intrastate.
10/
11/ ns 397 ti companies--authorizing 1,806 cabs.
12/ 12/11/75.
13/ not maintained separately--number of vehicles included in common carriers.
14/ As of 11/15/76.
15/ Bureau of Vehicle Regulation.
16/ Vermont Agency of Transportation, Department of Bus, Rail, Waterways and Motor Carrier Services, State Office Building, Montpelier, Vermont 05602.
17/ Includes buses used for combination intrastate and interstate.

Digitized by Google

Table 76 — STATE CAPITOL EXPENDITURES FOR YEAR ENDED OCTOBER 31, 1976

AGENCY	Post Checks for State Inspection Authority				Road Checks for Interstate Carrier Inspection				Road Checks for Safety Violations			
	Trucks and Buses Observed	Violations Disclosed	Arrests Made	Fines Collected ($)	Trucks and Buses Observed	Violations Disclosed	Arrests Made	Fines Collected ($)	Trucks and Buses Observed	Violations Disclosed	Arrests Made	Fines Collected ($)
ALABAMA, DPS												
ALASKA, DC												
ALASKA, DOR												
ARIZONA, DPS	38,500 1/	29 1/	29	4,710 1/	38,500 1/	448 1/	448	49,500 1/	38,500	43,001	7,179	
ARKANSAS, DPS												
CALIFORNIA, DMV	1,100	103	68	8,490 2/	15,000	1,197	105 3/		Combined by California Highway Patrol.			
COLORADO, DOT	1,100 4/	130			1,500 4/	35						
CONNECTICUT, DOR												
FLORIDA, DPS	51,000 1/	38,704	4,037	481,150 1/					8,978	3,433 1/		
GEORGIA, DOT 5/	51,000	1,140	865	101,344 1/								
HAWAII, DOT												
IDAHO, DOT												
ILLINOIS, DC 6/												
INDIANA, DPS												
IOWA, DOR												
KANSAS, DOT	11,374 1/	8,001 1/	13,450 1/	114,201 1/								
KENTUCKY, DOT (KHP) 7/					69,845	2,838		140,755				
LOUISIANA, DOT												
MARYLAND, DOT												
MASSACHUSETTS, DPU												
MICHIGAN, DOT 7/												
MINNESOTA, DOT												
MISSISSIPPI, DOT 7/					79,000	2,000	1,007	80,000				
MISSOURI, DOT			452	39,000					8,738			
MONTANA, DOT												
NEBRASKA, DOR												
NEVADA, DOT												
NEW HAMPSHIRE, DOT	941	7	5	175	999 1/	4	4	320				
NEW JERSEY, DMV 7/	347	204			347	204			347	204		
NEW MEXICO, DOT	55	35	1,005	801	885		74,893	511	377	83		
NEW YORK, DOT												
NORTH CAROLINA, DC	2,820 1/	940			8,820	1,170		79,600	25,138	15,748	0	0
NORTH DAKOTA, DOT	2,205	35	31	1,750	8,200	65	850 1/		2,205	67	67	1,005
OHIO, DPU												
OKLAHOMA, DC	3,500	600	600	90,000	3,500	1,870	1,870	40,000	44,240	41,021	3,177	180,300
OREGON, DOT									3,000	4,500	1/	0
PENNSYLVANIA, DOT	4,430	900	689	51,963					1,137	1,137	1/	0
RHODE ISLAND, DPU												
SOUTH CAROLINA, DPS												
SOUTH DAKOTA, DPU	860	621	521	31,895	1,210	348	30	1,425	400-500	1,003	1,003	26,875
TENNESSEE, DOT						1,710	1,710	67,275	6,131			
TEXAS, DPS	17,414	52	52	3,250	15,414	1,200	1,200	77,200	17,316	44,714	2,133	53,075
UTAH, DC												
VERMONT, DMV												
VIRGIN ISLANDS, DPU												
VIRGINIA, DOT												
WASHINGTON, DPS												
WEST VIRGINIA, DPU	10,000	1,140	101	17,027	20,515	0,712	470	45,002	20,515	17,470	12	140
WISCONSIN, DOT	150	14	1	100	2,004	137	0	0	1,142	104	0	735
WYOMING, DPU												

1/ Unable to provide inventory and interstate breakdown on vehicles checked, violations and interstate and interstate combined.
2/ Out of service.
3/ Equipment violations.
4/ Commercial vehicles (a non-exempt).
5/ All exempt; 1% non-exempt.
6/ Data submitted to for inventory and interstate.
7/ Data not known.
8/ Fines assessed.
9/ Not available.
10/ Citations.
11/ Commercial vehicles put out checks for safety violations.
12/ Data for fiscal year ended June 30, 1976.
13/ Includes both interstate and interstate carriers.
14/ Percent of fine in lieu of arrest.
15/ 1,100 inspected.
16/ Inspected for safety, 400
17/ Trucks only.
18/ In 1976 a total of 51,211 vehicles were inspected. Non inspection 3 vehicle motor carrier offshore check for compliance with state operating authority. A total of 4,171 violations were disclosed and $24,000 collected in fines for all regulatory violations
19/ The 111 jurisdictions submitted the following data for motor carrier enforcement (fiscal year June 30, 1976): arrests-4,000; fines collected-$1,000,000; total inspections-69; total investigations-1,175; fines paid-citations issued-800.
20/ All inspection made within required time.
21/ Data for motor passenger buses only.
22/ Only 1 jurisdiction submitted the following data for motor carrier enforcement during 1976: citations issued-10,482; number guilty-9,057; fines collected-$49,192.
23/ No arrest power.

Digitized by Google

Table 77 - MOTOR CARRIER INVESTIGATORS

AGENCY	Motor Carrier Investigators Employed - Full-time: Number	Full-time: Annual Salary Range	Full-time: Average Annual Salary	Full-time: Average Years of Service	Part-time: Number	Part-time: Annual Salary Range	Part-time: Average Annual Salary	Part-time: Average Years of Salary
ICC	79	$11,523 - $37,347		6				
ALABAMA PSC	10	$ 9,864 - $15,054	$11,654	6				
ALASKA TC	4	$18,000 - $20,000	$19,000	4				
ALBERTA PUB	N/A				N/A			
ARIZONA CC	20 2/3/	$ 9,048 - $18,481	$10,104	6				
ARKANSAS TC	18	$ 9,906 - $14,404	$12,948	7				
CALIFORNIA PUC	5	$19,980 - $34,108	$21,936	11				
	30	$17,364 - $20,928	$19,980	7				
	37	$11,028 - $17,364	$15,828	3				
CANADIAN TC								
COLORADO PUC 3/	11	$12,000 - $18,624	$15,308	3.3				
CONNECTICUT PUCA	4	$ 9,419 - $11,693	$10,329	8				
DELAWARE TA	1	$ 9,320 - $14,220	$ 9,320	1				
FLORIDA PSC 7/	9 4/	$12,402 - $17,408	$15,509	18				
	6 5/	$10,481 - $13,780	$12,924	9				
	47 6/	$ 9,187 - $11,901						
GEORGIA PSC	18	$ 7,902 - $16,782 8/	$ 9,956	5.25				
HAWAII PUC								
IDAHO PUC	7 9/	$ 9,996 - $13,176	$11,028	2				
ILLINOIS CC	28 9/	$ 8,024 - $20,556	$12,908	3.8				
INDIANA PSC 10/								
IOWA TRB								
KANSAS SCC	3	$ 8,076 - $10,320	$10,836	11				
KENTUCKY DOT 10/	72	$ 7,716 - $10,344		5.5				
LOUISIANA PSC	9	$ 8,916 - $12,900	$11,542	4	7	$8,916 - $12,900	$10,240	2
MAINE PUC	6 11/	$ 7,904 - $10,587	$ 8,546	4 2/3				
	1 12/	$ 8,590 - $11,523	$10,686	29				
	1 13/	$10,357 - $13,673	$12,360	9				
MARYLAND PSC	9	$ 8,846 - $11,556	$11,000	6.3				
MASSACHUSETTS DPU	19 14/	$ 8,460 - $12,699	$11,220	7.7				
MICHIGAN PSC	95	$ 9,393 - $15,991	$13,332	18				
MINNESOTA 15/								
MISSISSIPPI PSC	15	$ 8,256 - $16,032	$10,884	10				
MISSOURI PSC	19	$10,188 - $15,996	$11,257	3				
MONTANA PSC	5	$10,854 - $13,226	$11,400	5				
NEBRASKA PSC	9	$ 8,508 - $12,000	$ 9,900	12				
NEVADA PSC	6 9/	$11,987 - $16,489	$15,788	8½				
NEW HAMPSHIRE PUC	4	$ 8,544 - $16,344	$ 9,894	4.8				
NEW JERSEY BPUC	20	$ 9,350 - $14,611	$12,600	7				
NEW MEXICO MVD 16/								
NEW YORK DOT	22 17/	$10,714 - $14,999	$13,000	15				
NORTH CAROLINA UC	11	$ 9,276 - $11,676		17				
NORTH DAKOTA PSC	2 1/		$15,600	4				
OHIO PUC	40	$10,500 - $15,500	$12,300	7.2				
OKLAHOMA CC								
OREGON PUC	14	$12,670		7				
PENNSYLVANIA PUC	48	$ 8,861 - $13,790	$10,731	9.61				
PUERTO RICO PSC	47	$ 4,800 - $ 7,080	$ 6,080	10				
QUEBEC								
RHODE ISLAND PUC	5	$ 9,000 - $13,200		10				
SOUTH CAROLINA PSC	36	$ 9,000 - $12,000	$10,800	10				
SOUTH DAKOTA PUC	3	$ 8,686 - $13,382	$10,140	5				
TENNESSEE PSC	40	$ 7,884 - $13,079	$ 9,309	4				
TEXAS RC	26	$ 9,552 - $13,692		5				
UTAH PSC	3	$10,608 - $15,492	$12,150	4.8				
VERMONT MVD 3/								
VIRGIN ISLANDS PSC								
VIRGINIA SCC	24	$15,528 - $17,900	$15,306	10				
WASHINGTON UTC	58	$ 9,216 - $21,492	$12,612	8½				
WEST VIRGINIA PSC	18	$ 7,656 - $13,116	$10,367	8½				
WISCONSIN PSC	3	$10,114 - $12,837	$12,512	13				
WYOMING PSC	1	$11,796 - $15,861	$12,000	8				

1/ Director and Assistant Director included.
2/ Motor Carrier Transportation Representatives.
3/ Enforcement under jurisdiction of Motor Vehicle Department and State Police.
4/ District Supervisors.
5/ Assistant District Supervisors.
6/ Transportation Investigation Officers.
7/ The Director, Assistant Director, and State Enforcement Supervisor of the PSC's Transportation Department are also commissioned as transportation investigators and authorized to make arrests in enforcement of applicable laws and PSC regulations.
8/ From trainee to chief supervisor.
9/ Supervisors included.
10/ Vehicle Inspection Division of the Indiana State Police employs motor carrier investigators.
11/ Public Utility Investigator I.
12/ Public Utility Investigator II.
13/ Public Utility Investigator III.
14/ Enforcement under jurisdiction of Motor Transportation Department - not connected with ICC.
15/ Now a function of the Minnesota Department of Transportation-Enforcement - Effective 11/8/76.
16/ Includes one supervisor and two examiners.
17/ Authorized positions; 16 positions filled.
18/ Bureau of Vehicle Regulation.

Digitized by Google

Table [illegible] - [illegible]

AGENCY	Must Intrastate Carriers File?	Will State Accept [illegible]?	Minimum Limits Per Vehicle	Inter-State	Endorsement Form No.	Cert. of Ins. Form No.	Expiration Date of Certificate	Cancellation Certificate Form No.	Cancellation Notice Requirement	Reinforcement Agreement Required?	Must Interstate Carriers File?
ICC	No	—	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	Yes	Yes [illegible]
ALABAMA PSC	Yes	Yes	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	No
ALASKA TC	Yes	Yes*	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes
ARIZONA CC	No	—	—	—	—	—	—	—	—	—	No
ARKANSAS TC	Yes	Yes	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes
CALIFORNIA PUC	Yes (Hwy Carrier only)	No	[illegible]	[illegible]	[illegible]	[illegible]	Policy Expiration	[illegible]	[illegible] days	No	No
COLORADO PUC	Yes	Yes	[illegible]	—	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes
CONNECTICUT [illegible]	No	—	—	—	—	—	—	—	—	—	No
DELAWARE [illegible]	No	—	—	—	—	—	—	—	—	—	No
FLORIDA PSC	Yes	Yes	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	No
GEORGIA PSC	Yes	Yes			[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes
HAWAII PUC	Yes	No	[illegible]	[illegible]	[illegible]	[illegible]	Policy Expiration	[illegible]	[illegible] days	No	No
IDAHO PUC	No	—	—	—	—	—	—	—	—	—	No
ILLINOIS CC	Yes	No	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	No
INDIANA PSC	Yes	Yes	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes
IOWA [illegible]	Yes	Yes	See Special Information [illegible] of table		[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes
KANSAS [illegible]	Yes	Yes	[illegible]	—	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes
KENTUCKY [illegible]	Yes	Yes*	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	No
LOUISIANA PSC	No	—	—	—	—	—	—	—	—	—	Yes
MAINE PUC	Yes	No	Up to [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible]		[illegible]	[illegible]	Policy Expiration	Company Letterhead	[illegible] days	No	No
MARYLAND PSC	No	—	—	—	—	—	—	—	—	—	No
MASSACHUSETTS DPU	Yes	No	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	No
MICHIGAN PSC	Yes	Yes	None specified		[illegible]	[illegible]	Cert. Until Cancelled or set to expire earlier than 12/31 of the year for which filed.	[illegible]	[illegible] days	No	Yes
MINNESOTA [illegible]	Yes	Yes	Reg. Rt. Common Carrier Less than [illegible] tons [illegible] Over [illegible] tons [illegible] [illegible] Carrier Less than [illegible] tons [illegible] Over [illegible] tons [illegible]			Form [illegible]			[illegible] days		
MISSISSIPPI PSC	Yes	No	[illegible] tons or under [illegible] Over [illegible] tons [illegible]		[illegible] Form [illegible]	[illegible] Form [illegible]	Policy Expiration	[illegible]	[illegible] days	Yes	Yes
MISSOURI PSC	Yes	Yes	Up to [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible]		[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	No
MONTANA PSC	Yes	No	[illegible]	[illegible]	[illegible]	[illegible]	Policy Expiration	[illegible]	[illegible] days	No	No
NEBRASKA PSC	Yes	Yes	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	No
NEVADA PSC	Yes	Yes	[illegible]	[illegible]	[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes
NEW HAMPSHIRE PUC	Yes	Yes	Up to [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] Over [illegible] tons [illegible] [illegible] per pound		[illegible]	[illegible]	Cert. Until Cancelled	[illegible]	[illegible] days	No	Yes

Table 78 - MOTOR TRUCK CARGO INSURANCE FILING REQUIREMENTS (Continued)

AGENCY	Must Interstate Carriers File?	Will State Accept MBRUC?	MINIMUM LIMITS Per Vehicle	Cargo	Endorsement Form No.	Cert. of Ins. Form No.	Expiration Term of Certificate	Cancellation Certificate Form No.	Cancellation Notice Requirement	Reimbursement Agreement Required?	Must Interstate Carriers File?
NEW JERSEY BPUC	Yes (M.C.C. Carrier only)	Yes	$5,000	$10,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	No
NEW MEXICO SCC	Yes	Yes*	$1,000	$ 2,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	Yes
NEW YORK DOT	Yes	No	$1,000	$ 2,000	7	5	Cont.Until Cancelled	2	20 days	No	Yes
NORTH CAROLINA UC	Yes	Yes*	$2,500	$ 5,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	Yes
NORTH DAKOTA PSC	Yes	Yes	$5,000	$ 5,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	15 days	No	No
OHIO PUC	Yes	Yes	$5,000	Not Stated	MBRUC-I	MBRUC-H	Cont.Until Cancelled Refiled BI but not Re Quired By Rule	MBRUC-K	30 days	Yes	Yes
OKLAHOMA CC	Yes	Yes	$2,500	Not Stated	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	No
OREGON PUC	Yes	Yes	$1,000	$ 2,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	Yes
PENNSYLVANIA PUC	Yes	No	Cargo $2,500		UCMC-32	Cargo	Cont.Until Cancelled		30 days	No	No
RHODE ISLAND PUC	Yes	Yes*	$2,000	$ 2,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	No
SOUTH CAROLINA PSC	Yes	Yes	$5,000	None	IRB-35393	35398	Cont.Until Cancelled	MC 2445	30 days	No	Yes
SOUTH DAKOTA PUC	Yes	Yes	$2,500	$ 5,000	Form E	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	Yes
TENNESSEE PSC	Yes	Yes	Up to 3 tons Over 3-4 tons Over 4-5 tons Over 5-6 tons Over 6-7 tons Over 7-8 tons Over 8-9 tons Over 9 tons	$2,000 $ 2,000 $3,000 $ 3,000 $4,000 $ 4,000 $5,000 $ 5,000 $6,000 $ 6,000 $8,000 $ 8,000 $10,000 $10,000 $12,000 $12,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	Yes
TEXAS RC	Yes	Yes	$1,000	$ 1,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	No
UTAH PSC	Yes	Yes	$2,500	$ 5,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	Yes
VERMONT AT (7)	No	---	---	---	---	---	---	---	---	---	No
VIRGINIA SCC	Yes	No	$2,500	$ 5,000	MC-10(b)	MC-10(b)	Policy Expiration or Cont.Until Cancelled	Company Letterhead	30 days	No	No
WASHINGTON UTC	No	---	---	---	---	---	---	---	---	---	No
WEST VIRGINIA PSC	Yes	No	$2,000	$ 4,000	MC-23	MC-23	Policy Expiration	MC-17	30 days	No	No
WISCONSIN PSC	No	---	---	---	---	---	---	---	---	---	No
WYOMING PSC	Yes	Yes	$2,000	$ 4,000	MBRUC-I	MBRUC-H	Cont.Until Cancelled	MBRUC-K	30 days	No	No

SPECIAL INFORMATION

* - States of Alaska, Kentucky, New Mexico, North Carolina, and Rhode Island will accept either MBRUC or their own forms.

(1) California - Notice of Reinstatement LC-674A required.

(2) Iowa -

a. Notice of Reinstatement MBRUC-F required.
b. To show evidence of Liquid Cargo Coverage, it is necessary to type "Liquid Coverage" in the upper right-hand corner of the certificate (MBRUC-H).
c. To show evidence of Passenger Cargo Coverage, it is necessary to type "Passenger Coverage" in the upper right-hand corner of the certificate (MBRUC-H).
d. Limits of Liability as follows:

Passenger Equipment - Vehicle used to transport passenger: $1,000. Vehicle used to transport passenger [illegible] freight: $1,000/$10,000. Freight in limited amounts transported by motor carriers of passengers by [illegible] of authority issued by the commission is considered to be express. Minimum insurance limits on a[illegible] on which m[illegible] passengers may be transported, as authorized shall be $1,000.

Freight Equipment - All vehicles transporting motor carrier freight $10,000 $10,000. [illegible] trucks used to transport truck operator freight $2,000 and $2,000. All truck tractors and semi-trailers u[illegible] to transport truck operator freight $5,000 and $5,000.

Liquid Transport - All vehicles used to transport liquid transport carrier freight $10,000 and $10,000.

(3) New Mexico -

a. Rescinder [illegible] (MC2421) required.
b. Notice of [illegible] (MC24231 required.

(4) Michigan - "fully [illegible] protect [illegible] property."

(5) The Virgin [illegible] truck carriers.
(6) ICC - Applies only to motor comm[illegible] of property with certain exceptions (carriers of low value commodities.)
(7) Vermont Agency of Transportation Department of Bus, Rail, Waterways and Motor Carrier Services, State Office Building, Montpelier, Vermont 05602.

Digitized by Google

Introduction - STATE ADOPTION OF UNIFORM MOTOR CARRIER STANDARDS

Columns 1 - 5 of Table 79 reflect the extent of State agency adoption of the Uniform Interstate Motor Carrier Standards (49 CFR, Part 1023) which were determined by the NARUC and promulgated into law by the Interstate Commerce Commission (ICC) pursuant to Public Law 89-170 [79 Stat. 648, 49 U.S.C., Sec. 302(b)]. The Fee for Original Registration of ICC Authority, Column 2, and the Fee for Supplemental Registration of ICC Authority, Column 3, are governed by 49 CFR, Sec. 1025.13. The fee for the issuance of an identification stamp for the Uniform Identification Cab Card, Form D, Column 4, and the fee for the assignment of an identification number (in lieu of such stamp) for the Cab Card, Form D, Column 5, are governed by 49 CFR, Secs. 1023.32 and 1023.33.

Columns 6 - 10 of Table 79 reflect the extent of State agency adoption of the Model State Standards Governing Operations of Interstate Motor Carriers Exempt from ICC Regulation which were adopted by the NARUC on November 14, 1968 (80th NARUC Annual Convention Proceedings, pp. 267-280). The Fee for Registration of Operation, Column 7, is provided for in Section 2.3 of the Model Standards. The fee for the issuance of an identification stamp for the Uniform Identification Cab Card, Form D-1, Column 9, and the fee for the assignment of an identification number (in lieu of such stamp) for the Cab Card, Form D-1, Column 10, is provided for in Section 4.2 and 4.3 of the Model Standards.

Column 11 of Table 79 reflects the extent State agencies reduce the amount of any fee specified in Columns 2 - 5, 7, 9 and 10 in accordance with reciprocity agreements with other States. Reciprocity as to ICC-regulated carriers is permitted by 49 CFR, Sec. 1025.106. Reciprocity for interstate carriers, exempt from ICC regulation, is governed by State law.

Column 12 of Table 79 reflects the extent States require carriers to annually file lists identifying the vehicles which they intend to operate within the respective States during the ensuing year pursuant to 49 CFR, Sec. 1023.32(d), for ICC regulated carriers and Section 4.2(d) of the Model State Standards for interstate carriers exempt from ICC regulation.

Columns 13 - 20 of Table 79 reflect the extent State agencies accept from ICC regulated carriers (identified in the Table as "IC"), interstate carriers exempt from ICC regulation (identified as "I"), and intrastate carriers (identified as "S"): (a) The Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, Form E; (b) The Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement, Form F; (c) The Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond, Form G; (d) The Uniform Motor Carrier Cargo Certificate of Insurance, Form H; (e) The Uniform Motor Carrier Cargo Insurance Endorsement, Form I; (f) The Uniform Motor Carrier Cargo Surety Bond, Form J; (g) The Uniform Notice of Cancellation of Motor Carrier Insurance Policies, Form K; and (h) The Uniform Notice of Cancellation of Motor Carrier Surety Bonds, Form L.

The text of these forms is stated in the Appendix to 49 CFR, Part 1025, for ICC regulated carriers, and is incorporated by reference in the Model State Standards Governing Operations of Interstate Motor Carriers Exempt from ICC Regulation. The NARUC on November 30, 1972, adopted a resolution recommending that the State agencies adopt these forms for intrastate motor carrier operations, 84th NARUC Annual Convention Proceedings, p. 236 (1972).

The National Conference of State Transportation Specialists (NCSTS) has adopted a model State act for the implementation of Public Law 89-170 [79th NARUC Annual Convention Proceedings, pp. 412-416 (1967)]. NCSTS has also prepared a model State motor carrier act [83rd NARUC Annual Convention Proceedings, pp. 470-493 (1971)].

The NARUC has published Public Law 89-170 and Standards for Operations of Interstate Motor Carriers at $3.00 per copy. This is a 65 page compilation as of February 1, 1977, of Public Law 89-170 and of the standards adopted thereunder to require evidence of the lawfulness of interstate operations of motor carriers with a State by (a) filing and maintaining current records of the certificates and permits issued by the ICC, (b) registering and identifying vehicles as operating under such certificates and permits, (c) filing and maintaining evidence of currently effective insurance or qualifications as a self-insurer under rules and regulations of the ICC, and (d) filing designations of local agents for service of process. In addition, the compilation includes: (a) Annotations to interpretations of the standards which have been made by the courts and the NARUC; (b) The Model State Standards Governing Operations of Interstate Motor Carriers Exempt from ICC Regulation; and (c) A list of the States requiring the use of the Uniform Identification Cab Card, Form D or Form D-1, or both, under such standards.

Uniform Identification Cab Card, Form D or Form D-1, may be purchased from the NARUC at .50¢ each.

Digitized by Google

604

Table 79 - STATE ADOPTION OF UNIFORM MOTOR CARRIER STANDARDS

Agency	Interstate Carriers (ICC Regulated) -1- Apply 89-170 Standards to ICC Carriers	-2- Fee for Original Registration of ICC Authority	-3- Fee for Supplemental Registration of ICC Authority	-4- Stamp Fee for Form B Cab Card	-5- Fee For Number for Form B Cab Card	Interstate Carriers (ICC Exempt) -6- Apply Model State Standards to Non-ICC Interstate Carrier	-7- Fee for Registration of Operation	-8- Period Registration Effective	-9- Stamp Fee for Form B-1 Cab Card	-10- Fee for Number for Form B-1 Cab Card
ALABAMA PSC	Yes	25.00	-0-	1.00	NA	Yes	25.00	Continuous	1.00	NA
ALASKA TC	Yes	25.00	10.00	No	No	Yes	25.00	Continuous	No	No
ARIZONA CC	Yes	25.00	-0-	5.00	NA	Yes	25.00	Continuous	5.00	NA
ARKANSAS TC	Yes 28/	50.00	50.00	NA 3/	NA	3/	50.00	Continuous	NA	NA
CALIFORNIA PUC	Yes	25.00	10.00	2.00	NA	Yes	25.00	Continuous	2.00	NA
COLORADO PUC	Yes	20.00	-0-	NA	-0-	Yes	20.00	Continuous	NA	-0-
CONNECTICUT PUCA	Yes	25.00	10.00	10.00	NA	No				
DELAWARE TA	No					No				
D. C. PSC	No					No				
FLORIDA PSC	Yes	25.00	10.00	5.00/8.00	NA	Yes	25.00	Continuous	5.00/8.00	NA
GEORGIA PSC	Yes	25.00	5.00	5.00 4/	NA	Yes	25.00	Continuous	5.00 4/	NA
HAWAII PUC	No					No				
IDAHO PUC	Yes	25.00	-0-	NA	-0-	Yes	25.00	1 Year	NA	-0-
ILLINOIS CC	Yes	25.00	-0-	-0-	NA	Yes	25.00	Continuous	-0-	NA
INDIANA PSC	Yes	25.00	10.00	15.00	NA	No				
IOWA TRB	Yes	25.00	10.00	1.00	NA	Yes	25.00	Continuous	1.00	NA
KANSAS SCC	Yes	10.00	10.00	10.00	NA	No	10.00	1 year	NA	NA
KENTUCKY DOT(BVR)	Yes	25.00 29/	-0-	2.00 30/	NA	Yes	25.00	1 year	2.00 30/	NA
LOUISIANA PSC	Yes	25.00	10.00	5.00 3/	NA	Yes	25.00	Continuous	5.00	NA
MAINE PUC	Yes	25.00	-0-	5.00 5/	NA	Yes	25.00	1 Year	5.00 5/	NA
MARYLAND PSC	No					No				
MASSACHUSETTS DPU	Yes	10.00 11/	10.00 11/	10.00 7/	NA	Yes	10.00 11/	Continuous	10.00 7/	NA
MICHIGAN PSC	Yes	20.00	10.00	NA	-0-	No				
MINNESOTA DOT	Yes	25.00 3/	-0-	5.45 8/	NA	Yes	25.00 3/	1 Year	5.00 8/	NA
MISSISSIPPI PSC	No					No				
MISSOURI PSC	Yes	-0-	-0-	25.00 10/	-0-	Yes	-0-	Continuous	25.00 10/	-0-
MONTANA PSC	Yes	17.00	-0-	5.00	NA	No				
NEBRASKA PSC	Yes	10.00	10.00	12/	NA	Yes	10.00	Continuous	12/	NA
NEVADA PSC	Yes					No				
NEW HAMPSHIRE PUC	Yes	10.00	10.00	5.00	NA	No				
NEW JERSEY BPUC	No					No				
NEW MEXICO SCC	Yes	25.00	10.00	NA	-0-	Yes	25.00	Continuous	NA	-0-
NEW YORK DOT	No					No				
NORTH CAROLINA UC	Yes	25.00	5.00	1.00	NA	Yes	25.00	Continuous	1.00	NA
NORTH DAKOTA PSC	Yes	25.00	10.00	2.50	NA	No				
OHIO PUC	Yes	25.00	10.00	1.00	NA	No	25.00	Continuous	1.00	NA
OKLAHOMA CC	Yes	25.00	10.00	26/	NA	No	25.00		26/	NA
OREGON PUC	No					No				
PENNSYLVANIA PUC	No					No				
RHODE ISLAND PUC	Yes	20.00	-0-	7.00	NA	Yes	20.00	Continuous	7.00	NA
SOUTH CAROLINA PSC	Yes	25.00	10.00 14/	1.00	NA	Yes	25.00	Continuous	1.00	NA
SOUTH DAKOTA PUC	Yes	25.00	-0-	4.00	NA	Yes	25.00	1 Year	4.00	NA
TENNESSEE PSC	Yes	25.00	10.00	5.00	NA	Yes	25.00	Continuous	5.00	NA
TEXAS RC	Yes	25.00	10.00	11.00	NA	No	25.00	1 year		
UTAH PSC	Yes	25.00	-0-	1.80	NA	Yes	25.00	Continuous	1.00	NA
VERMONT AT 31/	No					No				
VIRGINIA SCC	Yes	-0-	-0-	3.00		No				
WASHINGTON UTC	Yes	25.00	10.00	3.00 13/	NA	Yes	25.00	Continuous	3.00 13/	NA
WEST VIRGINIA PSC	Yes	-0-	-0-	3.00	NA	No 21/	-0-	1 Year	3.00	NA
WISCONSIN PSC	Yes	25.00	5.00	22/	-0-	Yes	25.00	Continuous	10.00	-0-
WYOMING PSC	Yes	-0-	-0-	-0-	NA	Yes	-0-	1 Year	-0-	NA

Digitized by Google

446

Table 79 - STATE ADOPTION OF UNIFORM MOTOR CARRIER STANDARDS (continued)

	All Interstate Carriers		Interstate Carriers (ICC Regulated) (IC); Interstate Carriers (ICC Exempt) (I); Intrastate Carriers (S)							
	-11-	-12-	-13-	-14-	-15-	-16-	-17-	-18-	-19-	-20-
Agency	Apply Reciprocity to Reduce Fees	Require List of Vehicles Operated	Accept Insurance Form E	Accept Insurance Form F	Accept Insurance Form G	Accept Insurance Form H	Accept Insurance Form I	Accept Insurance Form J	Accept Insurance Form K	Accept Insurance Form L
ALABAMA PSC	No	No	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
ALASKA TC	No	No	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
ARIZONA CC	No	IC, I	IC, I, S	IC, I, S	IC, I	61/	61/	61/	IC, I, S	IC, I, S
ARKANSAS TC	2/	No	IC, I, S	I	IC, I, S	IC, I, S		IC, I, S	IC, I, S	IC, I, S
CALIFORNIA PUC	Yes	No	I		I				I	I
COLORADO PUC	No	No	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
CONNECTICUT PUCA	No	Yes	IC, S		IC, S				IC, S	IC
DELAWARE TA										
D. C. PSC										
FLORIDA PSC	No	Yes	IC S	IC S	IC S	IC S	IC S	IC S	IC S	IC S
GEORGIA PSC	No	Yes	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
HAWAII PUC	No	Yes	IC, I, S	I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
IDAHO PUC	No	No								
ILLINOIS CC	No	No	No	No	No	No	No	No	No	No
INDIANA PSC	Yes 25/	No	IC S		IC S	IC S		IC S	IC S	IC
IOWA SCC	Yes 26/	No	IC, I, S	IC, I, S	IC, I, S	S	S	S	IC, I, S	IC, I, S
KANSAS SCC	No	Yes	IC, I, S	No	No	S	No	No	IC, I, S	No
KENTUCKY DOT (DMC)	No	Yes	IC, I, S	IC, I, S	No	S	S	No	IC, I, S	No
LOUISIANA PSC	No	No	IC, I, S	IC, I, S	IC, I, S	IC, I, S	I, S	IC, I, S	IC, I, S	IC, I, S
MAINE PUC	No	Yes	No	No	No	No	No	No	No	No
MARYLAND PSC										
MASSACHUSETTS DPU	Yes 7/	Yes	No	No	No	No	No	No	No	No
MICHIGAN PSC	No	No	IC		IC	IC	IC	IC	IC	IC
MINNESOTA DOT	Yes 9/	No	IC, I, S		IC, I, S	IC, I, S		IC, I, S	IC, I, S	IC, I, S
MISSISSIPPI PSC										
MISSOURI PSC	Yes 13/	No	IC, I, S	IC, I, S	IC, I, S	S	S	S	IC, I, S	IC, I, S
MONTANA PSC	No	No	IC	IC					IC S	
NEBRASKA PSC	Yes	No	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
NEVADA PSC										
NEW HAMPSHIRE PUC	No	Yes	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
NEW JERSEY BPUC										
NEW MEXICO SCC	No 18/	No 17/	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
NEW YORK DOT	No	No	S	S	S	S	S	S	S	S
NORTH CAROLINA UC	Yes 13/	Yes	IC, I, S		IC, I, S	IC, I, S		IC, I, S	IC, I, S	IC, I, S
NORTH DAKOTA PSC	No	No	S	S	S	S	S	S	S	S
OHIO PUC	No	No	IC, I, S	IC, I, S	IC, I, S	IC, S	IC, S	IC, S	IC, I, S	IC, I, S
OKLAHOMA CC	Yes 21/	No	IC, I, S	IC, I	IC, I				IC, I	IC, I
OREGON PUC		Yes	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
PENNSYLVANIA PUC			S	S						
RHODE ISLAND PUC	No	Yes	IC, I, S		IC, I, S	IC, I, S		IC, I, S	IC, I, S	IC, I, S
SOUTH CAROLINA PSC	No	No	IC, I	IC, I	IC, I				IC, I, S	IC, I
SOUTH DAKOTA PUC	Yes 16/	No	IC, I, S	IC, I, S	IC, I, S	S	S	I, S	IC, I, S	IC, I, S
TENNESSEE PSC	No	Yes	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
TEXAS RC	Yes 16/	Yes	IC S	IC S	IC S	S	S	S	IC S	IC S
UTAH PSC	Yes 15/	18/	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S	IC, I, S
VERMONT AT 18/		No								
VIRGINIA SCC	Yes	Yes								
WASHINGTON UTC	No	Yes	IC	IC, I, S	IC, I, S	20/	20/	20/	IC, I, S	IC, I, S
WEST VIRGINIA PSC	Yes 18/	Yes	No	No	No	No	No	No	No	No
WISCONSIN PSC	Yes 15/	No	IC, I, S		IC, I, S				IC, I, S	IC, I, S
WYOMING PSC	No	No	IC, I, S	IC, I, S	IC, I, S	I, S	I, S	IC, I, S	IC, I, S	IC, I, S

Digitized by Google

Footnotes - Table 79 - STATE ADOPTION OF UNIFORM MOTOR CARRIER STANDARDS

1/ Cargo insurance required on interstate carriers of mobile homes.
2/ A regulatory fee of $5.00 per power unit is charged carriers where legal domicile is in those states with which Arkansas does not have a reciprocal agreement. Evidence of payment is issued in the form of a small decal to be affixed to the right door of the vehicle.
3/ Arkansas PC will accept the application form, but has not adopted it.
4/ If a leased vehicle has been registered by the lessor with the Georgia PSC by the purchase of the regular $5.00 stamp, the lessee may register the vehicle in the lessee's name with a $1.50 multiple registration and identification stamp, or lessee may issue cab card for lessee's vehicle, place a $5.00 registration and identification stamp in the space allocated for Georgia, type in the upper left-hand corner of the cab card "30-day lease or less" and use the same card throughout the entire registration period where the same vehicle is subsequently used in trip lease operation by lessee.
5/ Fourteen-day trip permits at $2.00 each (in lieu of stamps) are available to registered carriers to allow for flexibility of operations.
6/ $10.00 for tractor; $5.00 for regular truck.
7/ The amount of the fee reduced by reciprocity is .500.
8/ The amount of the reciprocal fee is .492, $1.45 or $2.45.
9/ No charge for some reciprocal States.
10/ $5.00 for a 72-hour trip permit. No charge to carriers from reciprocal states.
11/ No charge for reciprocal States.
12/ The stamp fee equals the fee charged a Nebraska domiciled carrier by another State. If the other State does not register ICC exempt carriers, the stamp fee is .250.
13/ No stamp fee is charged a carrier whose vehicles are licensed in reciprocal States.
14/ Mobile home transporters are charged $5.00.
15/ No charge for registration or stamps for carriers of reciprocal States.
16/ Stamp fee waived or reduced for carriers resident or domiciled in reciprocal States.
17/ No stamp fees for carriers based in California, Missouri, North Carolina, Oklahoma or Michigan with vehicles here plated in one of these States, if complete schedule of equipment on the vehicles is filed.
18/ List only required if stamps obtained without charge through reciprocity.
19/ Single Trip Transit Permits: A for-hire carrier engaged exclusively in interstate or foreign commerce who crosses the State line, and who does not hold a valid registration from this Commission, may as an alternative to all other requirements apply for Simple Trip Transit Permits, valid for ten days, for a one-way trip into or out of the State. The fee is $10.00 and the permit will be issued at ports of entry upon presentation of an insurance policy or a certificate of insurance in the minimum amounts of $25,000.00, $100,000.00 liability and $10,000.00 property damage.

Single Trip Regulatory Fee Card: A for-hire carrier registered with this Commission to engage in interstate or foreign commerce across or between points in this State and points outside of this State may, as an alternative to other options, purchase single trip regulatory fee cards, valid for five (5) days, authorizing a one-way trip into, out of or across this State for a fee of $10.00 each. Such regulatory fee cards must be purchased in advance from this Commission's Olympia office only, and no refund will be allowed for unused cards. The card shall be carried in the vehicle operating under this type of permit, shall be under the control and direction of the motor carrier issuing same and shall be used only within the scope of authority of that motor carrier. At the end of each calendar month, a report shall be prepared and sent to the Commission, showing the card number, dates used, origin and destination of shipment and vehicle number.

Identification Cab Cards and Identification Stamps: Every power unit operated in the State, except those using single trip regulatory fee cards, must have an Identification Cab Card with a WUTC identification stamp attached and carried in the vehicle. The identification stamp fee is $3.00

Regulatory Fees: In addition to the identification cab card and stamp, proof of payment of regulatory fees must also be carried. Regulatory fees are based on the licensed gross weight plus additional tonnage of each power unit or combination. The following options are available as to regulatory fees:
Option 1: Assigned Regulatory Fees: Indicated by a colored identification stamp with gross weight stamped thereon which is to be placed on the identification cab card and serves as both the identification stamp and proof of regulatory fee payment.
Option 2: Floater Regulatory Fees: Indicated by a Floater Regulatory Fee Card which must be carried in the power unit in addition to the identification cab card and identification stamp. Said card may be used on any power unit or combination operated by the carrier. On vehicles which are to use the Floater Card, the carrier should order from this Commission sufficient $3.00 colored identification stamps to go on each vehicle's identification cab card which, repeat, must be carried in addition to the Floater Regulatory Fee Card. Lost or stolen floater cards are a total loss to the carrier and will only be replaced by payment of full fees.
Option 3: Single Cab Card through Department of Motor Vehicles: On equipment eligible for prorate, carriers who have previously registered with this commission, and who have been assigned a registration number, may apply for Assigned Regulatory fees and identification stamps on the Single Cab Card application to the Department of Motor Vehicles. The regulatory fee will be printed on the WUTC portion of the single cab card. In addition, the applicant will receive a colored identification stamp which is to be placed on a WAUUC identification cab card and carried with the Single Cab Card.

Where it is desired to use Floater Regulatory Fee Cards with the Single Cab Cards, the application to the Department of Motor Vehicles should omit WUTC fees, and application for identification stamps and floater regulatory fee cards should be made directly to the WUTC. In this case, the equipment will carry the Single Cab Card, a WAUUC identification cab card with attached identification stamp and a floater regulatory fee card.
20/ Cargo insurance not required unless advertising as insured carrier.
21/ ICC exempt carriers required to register vehicles with PSC and pay $3.00 fee for each vehicle, except where reciprocity applies.
22/ PSC has complete reciprocity with Arkansas, Kentucky, Ohio and Wisconsin and charges no fee to their domiciliaries for vehicles licensed in their respective States.
23/ Contract carriers $10.00; common carriers $20.00; and $2.00 (South Dakota), $2.50 (North Dakota), and $5.00 (Florida, Georgia, Louisiana and Tennessee) reciprocal.
24/ A Minnesota carrier is not required to purchase stamps, but the Iowa registration number must be written in Iowa square on the cab card.
25/ The Indiana PSC charges $5.00 per stamp for carriers based in Florida, Georgia, Tennessee and Louisiana, and $1.00 per stamp for carriers based in Minnesota. The PSC charges no fees to carriers based in Oklahoma, Arizona, Arkansas, California, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Virginia, West Virginia and Wisconsin.
26/ $3.00 for straight truck or passenger vehicles, and $5.00 for truck tractor vehicle.
27/ No fees are charged to carriers of reciprocal States, nor are such carriers required to obtain Oklahoma stamps.
28/ Except cab cards.
29/ Initial registration fee -- renewed annually for $25.00.
30/ Do not use Form D or D-1 Cab Card -- An identification card is required for each out-of-state licensed vehicle.
31/ Responsibility of another Department - not PCC.
32/ Vermont Agency of Transportation, Department of Bus, Rail, Waterways and Motor Carrier Services, State Office Building, Montpelier, Vermont 05602.

Digitized by Google

Table 10 - AGENCY RATE JURISDICTION OVER CERTAIN TRAFFIC OF MOTOR COMMON AND CONTRACT CARRIERS

AGENCY	Agency Exercises Rate Jurisdiction Over the Following Traffic of Motor Common and Contract Carriers																	
	Passenger		Passenger Charters		General Commodities		Bulk Commodities		Household Goods		Agricultural Commodities		Parcel		Baggage		Other	
	Common	Contract	Common	Contract	Common	Contract	Common	Contract	Common	Contract	Common	Contract	Common	Contract	Common	Contract	Common	Contract
	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	Yes	Yes		
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes 1/	Yes 1/	Yes	Yes	Yes	Yes		
[illegible]	Yes		Yes		Yes		Yes		Yes		2/		1/		Yes			
[illegible] CC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible] TC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes		
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes				
[illegible] TC																		
[illegible] PUC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
[illegible] PUCO	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes	1/	1/
[illegible] DPA	Yes	Yes	Yes	Yes														
[illegible] PSC																		
[illegible] PSC	Yes4/				Yes		Yes		Yes				Yes		Yes			
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible] PUCC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
PUC	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	10/25	
[illegible] CC	Yes				Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			
[illegible] PSC	Yes	Yes			Yes	Yes	Yes	Yes			Yes5/	Yes 1/	Yes	Yes				
[illegible]	Yes		Yes		Yes		Yes		Yes		Yes		Yes		Yes			
[illegible] PUCC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible] PSC	Yes		Yes		Yes	Yes	Yes 20/	Yes 20/	Yes		3/		Yes	Yes	Yes	Yes	21/	21/
[illegible] PSC	Yes		Yes		Yes	Yes	Yes	Yes	Yes				Yes	Yes				
PUC	Yes	Yes 3/	Yes6/	Yes 3/	Yes	Yes 3/	Yes	Yes 3/	Yes	Yes 3/		3/	Yes	Yes6/	Yes	Yes		
[illegible] PSC	Yes	Yes			Yes	Yes	Yes 3/	Yes 3/										
[illegible] DPU					Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	28/	28/
[illegible] PSC 10/	Yes11/	Yes11/			Yes	Yes	Yes11/	Yes11/	Yes	Yes	Yes11/	Yes 11/	Yes	Yes	Yes	Yes		
[illegible] DOT	Yes	12/	12/	12/	Yes	12/	Yes	12/	Yes	12/		12/		12/		12/		
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes				
[illegible] PSC	Yes		Yes		Yes		Yes		Yes		Yes		Yes		Yes			
[illegible] PSC	Yes		Yes		Yes		Yes		Yes		Yes		Yes		Yes			
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes				
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes		
[illegible] PUC	Yes	Yes	Yes	Yes	Yes 13/	Yes 13/	Yes 13/	Yes 13/	Yes 13/	Yes 13/		Yes 13/	Yes 13/	Yes				
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes								
[illegible] DOT	Yes12/	Yes 13/	Yes13/	Yes 13/	Yes 14/	Yes 14/		Yes 13/	Yes 13/									
[illegible] PUC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	15/	15/	Yes	Yes	Yes	Yes		
[illegible] TC	Yes 1/	Yes 17/	No	No	Yes 16/	Yes 17/	Yes 1/	Yes 17/	Yes 25/	No	Yes 1/	Yes 17/	Yes	Yes17/	Yes	Yes17/	Yes1/	Yes 17/
[illegible] UC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes13/	Yes 13/	Yes	Yes	Yes	Yes		
[illegible] PSC	Yes	Yes 16/	Yes	Yes 16/	Yes	Yes 16/	Yes	Yes 16/	Yes	Yes 16/	Yes13/	Yes 13/	Yes	Yes	Yes	Yes		
PC	Yes14/	17/	13/	17/	Yes14/	17/	Yes14/	17/	Yes14/	17/	Yes18/	17/	Yes19/	Yes17/	Yes16/	17/		
[illegible] CC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	28/	28/
[illegible] PUC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible] PUC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible] PSC	Yes				Yes		Yes		Yes		Yes		Yes		Yes			
[illegible] PSC	Yes		Yes		Yes		Yes		Yes		Yes		Yes		Yes			
[illegible] PSC	Yes15/	Yes15/	Yes15/	Yes15/	Yes15/	Yes 20/	Yes	Yes	Yes	Yes	Yes15/	Yes 21/	Yes	Yes	Yes	Yes		
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		
[illegible]	Yes				Yes		Yes		Yes		Yes		Yes		Yes			
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes16/	Yes 16/	Yes	Yes	Yes	Yes		
[illegible] AT 22/	Yes				Yes		Yes						Yes					
[illegible] PSC	Yes																	
[illegible] DOT	Yes	Yes	Yes	Yes	Yes		Yes		Yes				Yes		Yes			
[illegible] PUC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	23/	23/
[illegible] PSC	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	23/	23/
[illegible] PSC	Yes		Yes		Yes	Yes	Yes	Yes	Yes	Yes			Yes	Yes	Yes	Yes		
[illegible] PSC	Yes	Yes	Yes	Yes	Yes		Yes24/	Yes 25/	Yes	Yes	Yes18/	Yes 18/	Yes23/				26/	26/

Digitized by Google

Footnotes - Table 80 - AGENCY RATE JURISDICTION OVER CERTAIN TRAFFIC OF MOTOR COMMON AND CONTRACT CARRIERS

1/ Some are exempt.
2/ Exempt.
3/ Petroleum commodities, heavy hauling commodities.
4/ Bus.
5/ Footnote not used.
6/ Footnote not used.
7/ Depends on size of vehicle.
8/ Limited.
9/ Flammables.
10/ Certain common carriers filing rates with this Commission have established rates under the "collective rate making" process for years. However, recently the Michigan Attorney General's office filed suit in court against a group of salt (common) carriers and attorneys for fixing transportation prices, etc. The Michigan PSC response is based on this and because there are no provisions applicable on Michigan intrastate traffic similar to Sec. 5-A of the ICC Act.
11/ With qualifications; see exemptions under Sec. 2 of Art. 479.2.
12/ Rates filed.
13/ Farm-to-market is exempt.
14/ Not all operations; only those outside an exempt zone.
15/ While the law apparently requires filing of schedule of rates for all service, we do not require a filing of charter rates.
16/ Limited commodities.
17/ Rate jurisdiction is limited to the filing of the contract, stating the compensation to be paid, and a prohibition against charging rates other than those on file.
18/ Livestock.
19/ Except within city limits and five miles thereof, except when for schools or churches.
20/ Includes all commodities except bulk commodities in tank trucks, household goods, and dangerous and explosive articles.
21/ Except from farm to first market when sold in South Carolina.
22/ Garbage collection.
23/ Trash, wrecked or disabled motor vehicles, and heavy equipment.
24/ Petroleum and petroleum products, bulk cement.
25/ Bus express.
26/ Oil field equipment and supplies.
27/ Cotton only.
28/ Covered under the heading "General Commodities."
29/ Within New York City commercial zone, outside of upstate commercial zones.
30/ Petroleum and cement.
31/ Mobile homes, heavy steel and metal products.
32/ Vermont Agency of Transportation, Department of Bus, Rail, Waterways and Motor Carrier Services, State Office Building, Montpelier, Vermont 05602.
33/ Intrastate only.
34/ Solid waste.

Digitized by Google

Table 64 - REGULATION OF MOTOR FREIGHT CARRIERS

AGENCY	Scope of Agency regulation of motor freight carriers - Common Carriers: Entry	Operating Territory	Abandonment	Rates	Accounting	Service	Safety	Security Issues	Mergers and Acquisitions	Insurance	Reporting	Interstate Motor Trucks Carrier Registration	Contract Carriers: Entry	Operating Territory	Abandonments	Rates	Accounting	Service	Safety	Security Issues	Mergers and Acquisitions	Insurance	Reporting	Interstate Motor Trucks Carrier Registration
ICC	X	X	X	X	X	X		X	X	X	X		X	X	X	X	X	X		X	X	X	X	
ALABAMA PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
ALASKA TC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
ALBERTA PUB																								
ARIZONA CC	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
ARKANSAS TC	X	X	X	X		X	X		X	X	X	X	X	X	X	X		X	X		X	X	X	X
CALIFORNIA PUC	X	X	X	X	X	X		X	X	X	X	X	X	X		X	X				X	X	X	X
CAROLINA TC																								
COLORADO PUC	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
CONNECTICUT PUCA	X	X	X	X	X	X	X/		X	X	X1/	X	X	X	X	X	X	X	X/		X	X	X1/	X
DELAWARE TA																								
FLORIDA PSC	X	X	X	X2/	X	X	X		X	X	X	X	X	X	X	X3/	X	X	X	X	X	X	X	X
GEORGIA PSC		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X
HAWAII PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
IDAHO PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
ILLINOIS CC	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
INDIANA PSC		X	X			X	X		X	X		X		X	X			X	X		X	X		X
IOWA TRB	X2/	X2/		X2/		X2/	X			X4/		X										X		X
KANSAS SCC	X	X	X	X	X	X	X		X	X	X1/	X	X	X	X	X	X	X	X		X	X	X1/	X
KENTUCKY DOT (BMC)	X	X	X	X	X	X	X		X	X	X1/	X	X	X	X	X	X	X	X		X	X		X
LOUISIANA PSC	X	X	X	X	X	X		X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X
MAINE PUC	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X		X	X	X	X	X	X
MARYLAND PSC 3/	X	X	X	X	X	X	X	X	X	X	X1/	X	X	X	X	X	X	X	X	X	X	X	X1/	X
MASSACHUSETTS DPU	X	X	X	X	X	X	X	X	X	X	X4/	X1/	X	X	X	X	X	X	X	X	X	X	X1/	X
MICHIGAN PSC	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
MINNESOTA PSC	10/	X	X	X	10/	10/	10/		X	10/	10/	10/	10/	X	X	X5/	10/	10/	10/		X	10/	10/	10/
MISSISSIPPI PSC		X	X	X	X	X	X		X	X	X	X		X	X	X	X	X	X		X	X	X	X
MISSOURI PSC	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
MONTANA PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
NEBRASKA PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
NEVADA PSC	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
NEW HAMPSHIRE PUC	X	X	X	X2/					X	X6/	X	X	X	X		X2/					X	X6/		X
NEW JERSEY BPUC																								
NEW MEXICO SCC	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X				X		X
NEW YORK DOT	X	X	X	X	X	X			X	X	X		X	X	X	X	X	X				X	X	
NORTH CAROLINA UC	X	X	X	X	X	X	X	X	X	X	X3/	X	X	X	X	X	X	X	X	X	X	X	X3/	X
NORTH DAKOTA PSC	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X5/	X	X	X	X	X	X	X	X
OHIO PUC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
OKLAHOMA CC	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X				X	X	X
OREGON PUC	X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X			X	X	X
PENNSYLVANIA PSC	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	
PUERTO RICO PSC	X	X	X	X	X	X	X	X		X	X		X	X	X	X	X	X	X		X	X	X	
QUEBEC																								
RHODE ISLAND PUC	X	X		X			X	X	X	X	X		X	X		X		X	X		X	X	X	
SOUTH CAROLINA PSC	X	X		X		X	X		X	X	X	X	X	X		X		X	X		X	X	X	X
SOUTH DAKOTA PUC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
TENNESSEE PSC	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
TEXAS RC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
UTAH PSC	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X				X	X	X
VERMONT PS 8/1/13/	14/	X	X	X	X	X	X	X	X															
VIRGIN ISLANDS PSC								X																
VIRGINIA SCC	X	X	X	X		X		X		X		X	X	X		X	X	X	X		X	X		X
WASHINGTON UTC	X	X	X		X	X	X	X2/	X	X	X	X	X	X	X	X	X	X	X	X2/	X	X	X	X
WEST VIRGINIA PSC	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X		X	X	X	X
WISCONSIN PSC	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X			X	X	X
WYOMING PSC	X	X	X	X		X	X		X	X	X	X	X	X		X		X	X			X		X

1/ Annual reports are required to be filed showing intrastate operations.
2/ Supplier posts carriers of general commodities including common and contract flammable carriers.
3/ Flammable tank truck carriers only.
4/ Contract (charter) carrier rates filed with the PSC. PSC prescribes minimum rates upon petition.
5/ No jurisdiction if securities subject to ICC regulation.
6/ Under jurisdiction of Connecticut Motor Vehicle Department.
7/ Requires filing only.
8/ Cheaps only.
9/ Cheaps, sand building and construction aggregates.
10/ Minnesota Department of Transportation.
11/ Intrastate operations only.
12/ Vermont Agency of Transportation, Department of Bus. Rail, Waterways and Motor Carrier Services, State Office Building, Montpelier, Vermont 05602.

Digitized by Google

Table 81 - NUMBER OF MOTOR FREIGHT CARRIERS UNDER AGENCY JURISDICTION

AGENCY	Motor Freight Carriers					
	Common Carriers			Contract Carriers		
	Number of Carriers	Number of Vehicles	Citation of Jurisdictional Authority	Number of Carriers	Number of Vehicles	Citation of Jurisdictional Authority
ICC	11,863		49 U.S.C. 301 et seq.	3,781		49 U.S.C. 301 et seq.
ALABAMA PSC	234		Code of Ala., Title 48	73		Title 48, Sec. 301(1-31), Code of Alabama
ALASKA TC	198	7,841	A.S. 42.10	170	1,136	A.S. 42.10
ALBERTA PUB						
ARIZONA CC	4,974	72,790	ARS. 40-601, Rule R-14-5-303	135	4,050	ARS. 40-608, Rule R-14-5-304
ARKANSAS TC	2,100		Act 397 - 1955	200		Act 397 - 1955
CALIFORNIA PUC	670		Calif. P.U. Code 1063	19,000		Calif. P.U. Code 3541-5133
CANADIAN PC						
COLORADO PUC	4,679		Sec. 40-1-102 CRS 1973	1,457		Sec. 40-11-101 CRS 1973
CONNECTICUT PUCA	574 11/	142,718 5/		95 10/		
DELAWARE DA						
FLORIDA PSC	1,984	33,504	F.S. 323.02 & 323.03	94	13/	F.S. 323.04
GEORGIA PSC 8/	1,950	17,860 9/	Ga. Code, Ch. 68-6	190		Ga. Code, Ch. 68-5
HAWAII PUC 14/	199	2,553	Ch. 271, SRS	10	119	
IDAHO PUC	701 10/		Ch. 8 Title 61, Idaho Code	97 10/		Ch. 8, Title 61, Idaho Code
ILLINOIS CC	7,132		Ch. 95½, 111. Rev. Stat.	1,001		Ch. 95½, 111. Rev. Stat.
INDIANA PSC	755 1/		Ind. Code 1971, 8-2-7-1, 8-2-7-51	426 2/		Ind. Code 1971, 8-2-7-1
IOWA TRU	72 1/		Ch. 325, 327 Iowa Code, 1975	2,500		Ch. 327 Iowa Code, 1975
KANSAS SCC			Kan. Statu. Ann., Ch. 66			Kans. Statu. Ann., Ch. 66
KENTUCKY DOT (BVH)	27,500 13/	221,257 13/	KRS 281.600	95 10/		KRS 281.600
LOUISIANA PSC	277	6,141 9/	Constitutional and Statutory	96		Constitutional and Statutory
MAINE PUC	63	695	35 M.R.S.A., Ch. 93	375	1,358	35 M.R.S.A., Ch. 93
MARYLAND PSC	65	3,576	Article 78	4 5/	260	Article 78
MASSACHUSETTS DPU	803 10/	21,549 10/	Mass. General Law 159B	771 10/	1,278 10/	Mass. General Law 159B
MICHIGAN PSC	3,744	33,917	Act 254, P.A. 1933, Amended	824	2,740	Act 254, P.A. 1933, Amended
MINNESOTA PSC	86		Minn. Statu. Ch. 221	7,858		Minn. Statu., Ch. 221
MISSISSIPPI PSC	184			20		
MISSOURI PSC	1,254		Ch. 390 RSMo.	132		Ch. 390 RSMo.
MONTANA PSC			MAC-8-101-8-129			MAC-8-101-8-129
NEBRASKA PSC	917	7,050	75-301 et seq.			
NEVADA PSC	42		Nev. Revised Statu., Ch. 706	2		Nev. Revised Statu., Ch. 706
NEW HAMPSHIRE PUC	474		RSA 375-A and 375-B	907		RSA 375-B
NEW JERSEY BPUC						
NEW MEXICO SCC	4,000	13/	N.M. Motor Carrier Act, 64-27-1 et seq.	15	73/	N.M. Motor Carrier Act, 64-27-1 et seq.
NEW YORK DOT	1,550 14/		Trans. Law: Title 17, NYCRR	300		Trans. Law: Title 17, NYCRR
NORTH CAROLINA UC	534		N.C. Gen. Statu., Ch. 62-3(23) a. 3, 4	112		N.C. Gen. Statu., Ch. 62-3(23) a. 3,4
NORTH DAKOTA PSC	260	1,284	49-07-01 NDCC	31	75	49-07-01 NDCC
OHIO PUC	916 15/	58,716 15/	Title 49, Ohio Revised Code	793 15/	12,914 15/	Title 49, Ohio Revised Code
OKLAHOMA CC						
OREGON PUC	418 10/	21,800		108 10/	1,297	
PENNSYLVANIA PUC	2,950		Pa. Public Utility Law	275		Pa. Public Utility Law
PUERTO RICO PSC	7,056	10,167				
QUEBEC						
RHODE ISLAND PUC	788		Title 39, Ch. 12, Secs. 1-44			
SOUTH CAROLINA PSC	588	6,585		145	484	S.C. Code Ann., Sec. 58-1401 et seq. 1967, Amended
SOUTH DAKOTA PUC	956 10/	3,131	S.D. C.L. 49-28	261	1,872	S.D. C.L. 49-28
TENNESSEE PSC	2,298 5/		65-1501 et seq.			
TEXAS RC			Tex.Rev. Civil Stat.Ann.,Art. 911b			Tex.Rev. Civil Stat. Ann.,Art.911b
UTAH PSC	2,980 5/		Utah Code, Sec. 54-6-4	5/		Utah Code, Sec. 54-6-8
VERMONT AT 17/	13		Title 30, VSA Sec. 803			
VIRGIN ISLANDS PSC						
VIRGINIA SCC	23		Va. Code, Title 56, Ch. 12	6,500	18,700	Va. Code, Title 56, Ch. 12
WASHINGTON UTC	6,429		Title 81, Rev. Code of Wash.	231		Title 81, Rev. Code of Wash.
WEST VIRGINIA PSC	5,591 5/	227,000	Ch. 24-A, W. Va. Code			
WISCONSIN PSC	346 7/		Wisc. Statutes, Ch. 194	17,367 7/		Wisc. Statutes, Ch. 194
WYOMING PSC	69		Sec. 37-145, Wyo. Statu., 1957	1,368		Sec. 37-138, Wyo. Statu. 1957

1/ Intrastate only: Interstate = 2,741.
2/ Intrastate only: Interstate = 1,006.
3/ 15,000 irregular route truck operators.
4/ This figure includes all interstate vehicles [illegible] freight and passenger.
5/ Two common and contract carriers of flammabl[illegible]
6/ Total number motor freight carriers (common [illegible] contract)
7/ Motor carriers.
8/ Intrastate. In addition approximately 17,856 additional carriers, both regulated and exempt, operating in excess of 220,000 vehicles solely in interstate operations which must register authority vehicles and comply with insurance requirements and safety regulations.
9/ Figure includes motor freight common and contract carriers, and motor passenger common carriers -- breakdown unknown.
10/ Intrastate only.
11/ Intrastate only. In addition 2,225 interste [illegible] (ICC regulated).
12/ Total for-hire motor carriers, common and contract; and private carriers for purposes of motor fuel tax.
13/ Number of Vehicles reported to Motor Transportation Department.
14/ Includes New York City household goods movers
15/ Number of contract carrier vehicles are incl[illegible] total common carrier vehicles.
16/ As of 11/15/76.
17/ Vermont Agency of Transportation, Department [illegible] Rail, Waterways and Motor Carrier Services, State Office Building, Montpelier, Vermont 05602.
18/ Intrastate only; interstate registered - 2,916.
19/ Intrastate only; interstate registered - unknown.
20/ Intrastate only; interstate registered - 1,213.

Digitized by Google

The CHAIRMAN. Mr. Harold Shay, vice chairman of American Trucking Association.

All right, Mr. Shay.

STATEMENT OF HAROLD A. SHAY, VICE CHAIRMAN OF AMERICAN TRUCKING ASSOCIATIONS, INC.; ACCOMPANIED BY KEN STINGER, LEGISLATIVE COUNSEL; WILL JOHNS, SAFETY DIRECTOR; NELSON COONEY, GENERAL COUNSEL; AND LARRY STERN, STERN'S TRANSPORT

Mr. SHAY. Mr. Chairman, members of your committee, I want to express my appreciation to appear before you this morning on behalf of the legislation being discussed.

My name is Harold Shay. I'm a vice chairman of the American Trucking Associations, Inc., and a past president of the ATA Affiliated Local and Short-Haul Carriers National Conference.

I'm president of Shay's Service in Dansville, N.Y., which is a local and short-haul carrier primarily in the western New York State area.

With me today I have Lawrence Stern, Nelson Cooney, Will Johns, and Ken Stinger.

Mr. Stern is president of Stern's Transport in Bradley, N.J. He's also State vice president of the American Trucking Associations—ATA—and he is here today in his capacity as chairman of the Safety Committee on Research and Environment.

My more detailed statement that you have will explain this to you. But it's known as our score committee, made up of top management people in the safety and environmental effort.

The remaining members of my party are staff members of ATA.

Before I begin my testimony on the bill before you. I would like to state that the trucking industry has a long history of safety activity and safety programs. Today ATA has a complete safety service that furnishes thousands of materials to the trucking companies throughout the Nation. In fact, we have one of the largest safety organizations of any industry in the Nation.

That organization is outlined in my comprehensive statement, and I will not take the time to repeat particulars of it.

Suffice it to say that we're concerned about safety. ATA is on record before Congress for increased enforcement of the existing safety regulations. Increased enforcement is necessary for control of drivers and also to assure that vehicles are in safe operating condition.

The Bureau of Motor Carrier Safety currently has only 133 safety inspectors throughout the country to enforce safety regulations. It usually focuses combined efforts on large motor carriers but, however, is not limited to this. But it does have limited manpower that can be utilized to cover the maximum number of drivers and vehicles.

A recent roadside inspection conducted by the Bureau of Interstate 80 in Pennsylvania demonstrated the need for more manpower to cover a large spectrum of drivers and vehicles.

The CHAIRMAN. Wouldn't that also demonstrate the importance of a little more awareness of your organization to try and do some self-policing?

Digitized by Google

Mr. SHAY. Well, I think, in answer to your question, we have a great variance in the industry, and I can't speak for all operators. I'm speaking primarily for the regulated sector of the industry, and I believe that we have done a favorable job in the regulated area. We have no control over the independents, or do we have any great influence over the private carrier.

Speaking of the inspection on Interstate 80—it demonstrated the need for manpower to cover the inspection of drivers and vehicles. In that inspection 382 vehicles were placed out of service because of their unsafe condition. While these 382 vehicles represent a small portion—I think this is important—of an estimated 34,000 trucks which pass the inspection point, about 1 percent of the total were in violation. So there is a need for more enforcement so that every unsafe truck and driver can be taken out of service if necessary. That is why we've taken a long, hard look at S. 2970.

We're in favor of the bill. We want one that is workable. ATA appreciates the frank and open posture that Senator Percy and his staff have taken on this proposed legislation. For the past several months ATA has been one of the many interest groups and organizations that had discussions on the bill with Senator Percy's staff.

ATA also appreciates the opportunity to comment on S. 2970 before this committee, to which the bill has been referred for possible action.

In my comprehensive statement you will find detailed comments on the individual provisions of the bill. There you will find some strong opposition to some provisions which we feel would be costly to administer, costly for the motor carrier, and add little to the goal of safety.

I'd like to spend a few remaining moments with you today on what we feel is right with the bill and what we think would truly improve safety on the highway and trucking operations.

The emphasis should be placed on two goals: One, the stronger enforcements, and two, the establishment of a national commercial driver register.

S. 2970, properly drawn and amended, could increase Federal and State enforcement capabilities so that more commercial trucks and drivers would be kept in compliance with the motor carrier safety regulation.

By the present provisions of the bill, the heavier intrastate commercial vehicles would come under Federal regulation for the first time.

Also, the bill provides for the States to enforce comparable safety regulations under an approved plan, and for that purpose, a total of $100 million would be authorized each fiscal year out of the highway trust fund on an 80/20 matching basis.

For the best safety enforcement, however, we urge the committee to consider amending sections 9, 10, and 11 of the bill to embrace the more effective approach of placing vehicles and drivers out of service instead of emphasizing an OSHA-type approach to issuing citations, overwhelming fines, and allowing appeals to another Federal entity.

The present approach of S. 2970 would greatly expand the Federal bureaucracy in order to hear and review contested citations and would be costly to the motor carrier.

Digitized by Google

Our experience has taught us that the red-tagging of vehicles and drivers by an inspector on the highway—we've heard this this morning with previous testimony—thereby putting them out of service until correction of the unsafe condition is accomplished, is a more effective approach to enforcement of safety regulations.

This approach will be costly for carriers who operate unsafely and will be most effective for encouraging safe operation. We suggest that the committee explore further the merits of this approach.

The other primary improvement which this committee should consider is the establishment of the commercial driver register. A national commercial driver register would work like this: It would require that all commercial drivers be registered with DOT. Whereas the current National Driver Register contains only the names of drivers whose driving privileges have been suspended for one reason or another, it would establish a system for compiling information about all moving violations of the commercial drivers. It would eliminate the potential for utilization of false identification and more than one operator license by an individual with a bad driving record.

The purpose of the commercial driver record would be to establish a central registry containing information about driver employment and driver records, so that the Federal, State, and local officials and employers could effectively monitor driving performance.

Through such monitoring commercial drivers who are unsafe could have their licenses revoked or suspended by the respective States, as it would be deemed appropriate. Employers could take corrective actions, if necessary.

Prospective employers would be fully knowledgeable about the driving record of this prospective employee. We strongly recommend that this committee consider the establishment of a national commercial driver register and amend S. 2970 to reflect this.

And I thank you for your time and we certainly, with my colleagues, will field any questions you may have, Senator.

The CHAIRMAN. All right. Thank you very much, Mr. Shay.

Just one observation before I have to leave for a vote, and then I'll be back for a few questions. You were indicating that one of the problems occurs because of the private carriers, and so on, and others who help drive these statistics up. In the onsite strike force inspection, the private carriers did slightly better than the ICC-regulated carriers. How do you account for that?

Mr. SHAY. I think there are many criteria for this. Speaking specifically about the private carrier, of course, I believe that the very age of his equipment. I believe, his susceptibleness to the inspection may not put the ratio as high of those who were inspected. I think that the regulated carrier who not by design at all is more frequently and in a larger ratio or a larger percentage of his fleet is inspected than nonregulated.

The CHAIRMAN. We are in the second half of a vote; we will recess for approximately 10 minutes, while I go and vote.

[Recess.]

The CHAIRMAN. The committee will come to order.

Mr. Shay, in your statement you strongly endorse the establishment of a national commercial driver register. Has the ATA or any other group analyzed the cost of the development of such a prog a?

Digitized by Google

Mr. SHAY. I'm going to refer that question, if I may, Senator, to Will Johns, who is the technical person on the ATA staff.

Mr. JOHNS. I am not a person highly knowledgeable in the finances of that type of thing, Senator. We do know that it would cost several million dollars to run such an operation. I think that it would be comparable to the cost of the current national driver register. It would be, though, focused——

The CHAIRMAN. What is that? Do you know what the cost of that is?

Mr. JOHNS. No, sir, I don't know what the cost is today.

The CHAIRMAN. In your statement, you say, "We note the extension of coverage to intrastate operations for the first time on transportation of other than hazardous materials is a hefty increase in coverage, even though limited to vehicles over 10,000."

Do you have any views as to the appropriateness of such an increase in jurisdiction?

Mr. SHAY. Well, here, again, I think this is a statistical data and I again will go back to Will and ask if we don't estimate that there are about 6 million of these vehicles.

Mr. JOHNS. About 6 million of these vehicles is our best estimate. Nobody knows the exact number of commercial vehicles in this country; however, there are about 25 million trucks of all types registered. Our best estimate is that 10 million of these would be in commercial operations.

The CHAIRMAN. Well, do you believe that the potential safety benefits of such added coverage would be commensurate with the additional duties?

Mr. JOHNS. Yes, we do. The figures indicate that the interstate carriers have a record of approximately 2,500 fatalities per year and that the total fatalities for truck operations of all kinds is about 6,600. So we estimate that there would be a potential benefit of savings of lives of approximately 4,000.

The CHAIRMAN. In your statement, Mr. Shay, you state that civil penalty provisions are unjustifiable. Earlier, the deputy administrator of FHA strongly argued for increased civil penalty authority. The administrator also stated that the present criminal penalties were inadequate.

Would you comment on his views on this issue?

Mr. SHAY. As a matter of judgment, Senator, on our part we know how effective it is to be red-tagged and put out of service. We also feel that should the mistake be made of freeing the entry into the trucking business that we are going to have more and more individuals who will not financially be able to take such a burden and they will just disappear, whether the fine will be collected or not. But we do know, and I think in the testimony of Dr. Kaye he referred to it this morning on the red-lining that the word soon gets around that your vehicle is going to be put on the side of the road, and we think it would be a more effective tool than a civil penalty.

The CHAIRMAN. Well, why should the Bureau of Motor Carrier Safety focus on safety violations only through the indirect issue of recordkeeping violations? Wouldn't it be much more appropriate to have civil penalties that are directly related to safety defects that have been discovered in the course of a safety inspection?

Digitized by Google

Mr. SHAY. Well, I'll answer in this way, Senator. I believe a person as far as I'm concerned, my personal opinion, I've spent most of my lifetime in this business, is that the inspection of a motor truck reveals many things and they're put out of service many times. It's not an accident going someplace to happen.

Let me be more specific. A broken spring leaf. It may have happened 5 minutes ago and would not contribute to an accident nor the cause of an accident in the next 100,000 miles. These type of violations—and if it is going to be based on inspection, I just feel that it's too severe, and there are other ways to effectively track the situation.

Now, I'd be happy to refer to Mr. Cooney, one of our staff people, if he'd like to comment on that also, Senator.

Mr. COONEY. We believe that a motor carrier if he's consistently violating the law will show up in the recordkeeping and that's the one who should be loaded with citations and penalties. We have an example on page 21 of penalties and fines ranging from $200 to $10,750. So they are substantial. And you go to the carrier now and go through his records and find he's just not maintaining the vehicle properly.

What Mr. Shay said is correct, that there is really no need to levy a fine on a carrier when you stop him on the highway and find a violation of a light broken or something like that. It's more important that he get it corrected. The enforcement official should then go back and check the records. If he finds the same carrier over and over again and will find a steady stream of violations which would be based on imposition of a citation penalty, it then can be substantial.

The CHAIRMAN. Thank you very much, gentlemen. We appreciate your being here.

Mr. SHAY. Thank you.

[The statement and questions and answers follow:]

STATEMENT OF HAROLD A. SHAY ON BEHALF OF AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. Chairman, and members of the Committee:

My name is Harold A. Shay, and I am a Vice Chairman of American Trucking Associations, Inc. (ATA), 1616 "P" Street, N.W., Washington, D.C. 20036. ATA is the national trade association of the motor carrier industry representing all types of motor carriers, with affiliated associations in every State and the District of Columbia.

My personal involvement in the trucking industry spans 30 some years. I am President of Shay's Service in Dansville, New York, a medium-sized carrier operating in western New York State, primarily in local and short haul operations.

ATA appreciates this opportunity to present its views to this Committee on S. 2970. We have a deep and abiding interest in all matters affecting safety, which stretches as far back as the early 1930's when ATA was formed. Today, ATA offers complete fleet safety services and furnishes thousands of safety materials to trucking companies throughout the nation.

Over the years, ATA has developed one of the largest safety organizations of any industry. At the top is the ATA Safety Committee on Research and Environment (our SCORE Committee), which is composed of over thirty trucking company executives who monitor safety problems and the various ATA safety policy matters.

Next is our Council of Safety Supervisors which is composed of more than 3,000 safety technicians employed by trucking companies. The Council has 47 state chapters and eight specialized chapters concerned with specific areas of operations such as those involving tank trucks, household goods moves, extra heavy hauls and oil field rigs.

Digitized by Google

Our safety people conduct numerous industry programs, including: Monitoring the safety of truck operations on the highways through industry cooperative road patrols; teaching safety to truck drivers, including independents, at truck stops; and monitoring vehicle condition through our voluntary roadside inspection program.

Just two weeks ago, ATA held its National Truck "Roadeo" in St. Louis. Two hundred and thirty-seven truck driving champions competed for national driving titles. The champions earned the right to participate in the National Truck Roadeo by winning titles at 42 state truck Roadeos conducted by our Council of Safety Supervisors.

Despite our extensive voluntary safety efforts, the trucking industry recognizes the need for governmental safety controls. We recognize that some motor carriers and some drivers will not voluntarily establish or adhere to minimum procedures and controls essential for safety. Thus, the trucking industry has supported legislation and regulation since 1935 when the Motor Carrier Act initially established federal safety control over interstate truck operations.

Since that time we have been strong and continuing supporters of the educational and enforcement activities of the Bureau of Motor Carrier Safety, first under the Interstate Commerce Commission and presently under the Department of Transportation. This agency, though small and operating on a limited budget, has been highly effective in its work.

As a result of industry safety programs and the efforts of the Bureau of Motor Carrier Safety, the truck safety record is excellent. A typical tractor-semitrailer combination travels 100,000 miles or more per year. Despite such high mileages, these vehicles are generally in excellent condition. Bureau of Motor Carrier Safety accident data show that vehicle condition is a causative factor in only six percent of the accidents involving heavy trucks.

Accident statistics of the National Safety Council show that there were 46,700 traffic deaths in the United States in 1976. Data from the Bureau of Motor Carrier Safety for 1976, the latest year available, shows that less than 6 percent of these fatalities (or 2,520) resulted from interstate truck operations. This reflects well on the safety of operations of the tractor-semitrailer combinations in this country, especially in view of their high mileages and constant exposure to adverse driving conditions, such as weather, traffic congestion, visibility and drinking drivers in other vehicles.

A study by ATA of the states, which were sampled by National Safety Council for its accident data, shows that tractor-semitrailer combinations have an accident involvement rate of 3.25 per million miles compared to a rate of 11.05 for vehicles other than trucks.

Despite this good record, there are problem areas. It is too easy for an individual to get behind the wheel of a truck without being qualified to operate the truck. It is also too easy for an individual to hide a bad driving record. These problems need to be resolved for improvement of truck safety.

Since 1958, ATA has been a strong supporter of the "one driver-one license" concept and the classified driver license system. Under the classified system, an individual is tested and licensed for a particular class of vehicle and cannot legally operate vehicles of a more complex type or larger size. For example, if an individual is classified to drive a single unit truck, commonly referred to as a straight truck, he is not allowed to drive a five-axle tractor-semitrailer combination.

When an individual is permitted by the state licensing system to drive a vehicle for which he is not qualified, an accident is almost certain to happen. Three years ago, one of our National Truck Driving Champions, James Garinger, suffered a crippling spinal injury. His truck was forced over the side of a mountain by another tractor-semitrailer combination operated by an independent driver who had just recently purchased his vehicle and had no training or experience to qualify him as a truck driver. He did have a general license which permitted him to legally operate a tractor-semitrailer.

As of this date, 26 states have adopted the classified licensing system. It is essential to safety that all states have such a system.

The "one driver—one license" concept also specifies that an individual should not be permitted to have more than one license. This is important for control of those persons who are unsafe. If an individual has only one license, all moving violations and accidents will be on the record for that license. If the

Digitized by Google

individual has more than one license, his violations and accidents may be spread over more than one record so that no one record is particularly bad.

Recently, the National Transportation Safety Board released a highway accident report detailing its investigation of an accident that involved a tractor-semitrailer combination and a school bus in Rustburg, Virginia, on March 8, 1977. Three of the occupants of the school bus died as a result of the collision. The truck driver was an independent. The investigation showed that the driver had a valid North Carolina chauffer's license with no restrictions, a valid Florida driver's license, and had previously held a Maryland chauffer's license and a South Carolina driver's license. Neither of the two valid licenses were classified licenses. From June, 1960, through March, 1977, this driver had at least 38 traffic violation convictions in eight states. Twenty-nine of his violations were against his North Carolina license, one violation agaist his South Carolina license, and eight violations against his Florida license. While this is an extreme case, it is not isolated and there are numerous other instances of drivers of cars and trucks spreading their violations over more than one license.

The problem of multiple licensing occurs because states do not have a good line of communication with each other or with the National Driver Register of the U.S. Department of Transportation. A person may obtain a license even though he has one in another state, or despite a bad driving record. Also, licenses are obtained through false identifications. The requirements of some states may even result in multiple licensing. For example, if an individual resides in one states and drives commercially in another, he may be required to have a license from each state. The problem of multiple licensing can be alleviated to some extent if the states adopted the classified licensing system and established a better line of communication for control of licensing.

A more effective course of action would be the establishment of a National Commercial Driver Register. The National Commercial Driver Register would differ from the National Driver Register currently in the Department of Transportation, as follows:

1. It would require that all commercial drivers be registered with the U.S. Department of Transportation, whereas the current National Driver Register contains only the names of drivers whose driving privileges have been suspended or revoked.

2. It would establish a system for compiling information about all moving violations of a commercial driver.

3. It would eliminate the potential for utilization of false identification and more than one operator's license by an individual with a bad driving record.

The purpose of the CDR would be to establish a central registry, containing information about driver employment and driving record so that federal, state and local officials and employers could effectively monitor driving performance. Through such monitoring commercial drivers who are unsafe could have their licenses revoked or suspended by their respective states as would be deemed appropriate. Employers could take corrective action as necessary. Prospective employers would be fully knowledgeable about the driving record of prospective employees.

The registry should consist of an individual's name, photo, fingerprints and one state motor vehicle operator's license. This would assure that an individual would have only one registry certificate and number, and that moving violations would be charged to one operator's license only.

The development of information about employment would be through information provided by employers.

Information about moving violations would come from copies of police citations for which the individual had been convicted or forfeited collateral. Police jurisdictions throughout the country would provide the information about moving violations. Thus information hundreds of miles from the state of license or an employer's business location would be available to state licensing officials and employers.

The National Commercial Driver Register would further require that CDR officials provide citation information to state licensing officials on a timely basis.

If this system were established, it would eliminate the practice of drivers concealing bad records by spreading moving violations among two or more licenses. It would strengthen the "one driver—one license" concept. Finally,

Digitized by Google

it would make the Driver Qualifications Regulations of the Federal Motor Carrier Safety Regulations more effective.

Therefore, we strongly recommend that this Committee consider the establishment of a National Commercial Driver Register as an amendment to S. 2970.

This brings us to consideration of Senate bill S. 2970, which has been introduced by Senator Percy and is presently before this Committee. Over the past several months, ATA has been one of many interested groups and organizations that have had discussions with the Senator's staff on S. 2970. We have benefitted from that dialogue since we have learned more directly the goals Senator Percy is attempting to achieve in this bill. After study, we made numerous, and what we consider to be constructive, suggestions for amendment to S. 2970 based on our long experience in trucking. We are hopeful that Senator Percy will amend his bill where he agrees with our suggestions and we submit our suggestions at this time to this Committee for its consideration.

ATA is formally on record supporting enforcement of the existing Federal Motor Carrier Safety Regulations promulgated by the Bureau of Motor Carrier Safety and we have so testified before Congress in the past. Increased enforcement is necessary for control of drivers and to insure that vehicles are in safe operating condition. The Bureau currently has only 133 safety inspectors throughout the country to enforce its regulations. Its compliance efforts are usually focused on the large motor carriers so that its limited manpower can be utilized to cover the maximum number of drivers and vehicles. There is a strong need for more enforcement so that every unsafe truck and driver are taken out of service.

While the basic purpose of S. 2970 is to gain an improvement in highway safety, the bill is not sufficiently focused on improved safety enforcement. Instead the bill has diluted this important objective by requiring substantial resources to be expended on a variety of new rulemaking proceedings and on the bringing of, or defending against, causes of action which would arise from the employer-employee litigation provisions. By focusing the Bureau's attention on a broad-based review of current regulations, less governmental resources—not more—will be available for increasing truck safety compliance. And by stimulating litigation and complaints, more private-sector resources will have to be expended in preparing defenses—and less will be available for increasing safety compliance.

Other provisions which cause concern are those which would require motor carriers to develop and maintain costly new motor carrier procedures and record-keeping to protect against unreasonable employee lawsuits; those which would permit the issuance of citations and the assessment of substantial civil penalties for unintentional record-keeping and other insubstantial safety regulation violations; and those which would require a many-fold increase in the safety records required to be kept by motor carriers.

Many other sections of the legislation need to be looked at closely, and appropriate refinements made to avoid consequences of questionable validity. For example, the definitions section needs to be revised to assure coverage is complete, and additional language needs to be added to the federal pre-emption provisions to protect well functioning state laws and regulations now on the books.

Finally, while ATA does not object conceptually to the federal aid for state enforcement provisions, we are unaware of any input from the states regarding its soundness or providing national alternative approaches. If enforcement is to be the goal—as it should—we think it is vital that the plan enacted be acceptable to the states. Involvement by the states in hearings such as these being held today, will prove beneficial in both the drafting and implementation of any legislation Congress might enact on truck safety.

ANALYSIS OF SPECIFIC PROVISIONS

Sections 1, 2, and 3: Congressional finding; purpose

While these provisions are perhaps not as substantive as the rest of the bill, they are important as an expression of Congressional intent to be relied upon in administrative and judicial proceedings arising from enactment of the legislation. For that reason, ATA requests: That Section 2 be revised to eliminate the unnecessary conclusory rhetoric contained therein, without changing the basic thrust of the findings; and that Section 3 be revised to assure that the

Digitized by Google

statement of purpose coincides with the intended effect of the legislation, which is broader in some respects and narrower in other respects than Section 3 would indicate.

For example, existing motor carrier safety regulations have not been demonstrated to be "inadequate" as written in Section 2. The current regulations consist of hundreds of pages of detailed regulations covering everything from accident reporting to windshield wipers. Additionally, the Bureau of Motor Carrier Safety is actively engaged in many new rulemaking proceedings in such diverse areas as cab size and dimensions and hours of service. While it may be argued that there should be stronger enforcement of the Federal Motor Carrier Safety Regulations, it is wrong to conclude that these regulations are inadequate.

Similarly objectionable are the Section 2 findings which appear to imply that commercial motor vehicles pose a grave safety risk primarily due to their extensive use and substantial size and weight and that there are no existing protections for employees who are discriminated against for efforts to promote safety. Both of these findings are incomplete on their face and should not be included as firm "Congressional findings".

Certainly Section 2 can be revised easily to include a general Congressional finding that it is in the public interest to enhance commercial motor vehicle safety and reduce highway fatalities, injury and property damage. Nothing is lost in such a revision and the possibility of a misconception of Congressional intent would be eliminated.

Section 3 should be revised to fit the declaration of purpose more closely to the thrust of the legislation. General statements of purpose have been relied on by federal agencies as a justification for regulatory action where no other delegation of authority has been made by the Congress.

This legislation is directed at Department of Transportation regulation of commercial motor vehicle safety. But the statement of purpose can be interpreted as going far beyond this. Section 3 should contain language referring directly to the Federal Motor Carrier Safety Regulations in existence and to be issued under the proposed Act by the Secretary of Transportation.

Section 3 should also state that the purpose of the Act is to promote the safe and healthy working conditions of all employees, not just drivers. No justification appears which provides a basis for distinguishing between drivers and other motor carrier employees. In this sense, the statement of purpose in Section 3 is much more restrictive than necessary.

Section 4: Definitions

Section 4 contains an expansive definition of "employer" but omits any definition of "employee". Such a definition is important and should cover, in addition to drivers, all those whose employment affects commercial motor vehicle operation, e.g., mechanics, freight handlers and others.

Coverage of all employees by a single federal entity is essential to achieving effective compliance. Omission of a definition of "employees" will encourage agency jurisdictional disputes regarding the coverage of employees other than drivers, and the net result for motor carriers could well be a duplicative set of federal safety and health regulations. Currently the Occupational Safety and Health Act recognizes that OSHA jurisdiction does not extend to those areas regulated by other federal agencies. Inclusion of such a definition is consistent with the principle of avoiding dual regulation as expressed in that Act.

It is important to point out that many motor carrier employees, in addition to drivers, are engaged in activities relating to safety. The safety involvement of mechanics and loaders is readily apparent. Less apparent, but just as important, are those who keep and maintain safety records, those who check out driver qualifications, and those who advise on purchasing equipment. Safety responsibilities run through a large cross-section of a safety-conscious motor carrier employment.

The definition of employee should include, for the purposes of this act only, independent contractors. This legislation can be construed as generally including independent contractors as employers under the Act. But in many instances the responsibility for safety compliance for a leased vehicle operated by an independent contractor has been legally imposed upon the lessee motor carrier. Because of this it is important that the employee definition also cover independent contractors.

Digitized by Google

Independent contractors who contract with regulated carriers are not and should not be considered as employees for purposes other than this legislation. Current Internal Revenue Service regulations recognize that leased operators are self-employed independent contractors and not employees for the purposes of tax law, and no suggestion is made herein that that determination should be affected in any way.

Sections 5 and 6: Applicability and duties

Our comments above relative to the coverage of motor carrier employees other than drivers apply as well to the second sentence of Section 5. An amendment thereto is necessary to indicate that the legislation applies to all employees engaged directly or indirectly in the operation of commercial motor vehicles.

Moreover, while ATA does not take exception to the 10,000 pound gross vehicle weight rating coverage limitation provided in the first sentence of Section 5, we must point out that this limitation does exempt large numbers of smaller commercial motor vehicles from coverage under the Act. As a conceptual matter, complete safety regulation is a laudable goal. But as a practical matter, unlimited commercial motor vehicle application would severely dilute the enforcement resources available to the Bureau of Motor Carrier Safety. We note the extension of coverage to intrastate operation for the first time on transportation of other than hazardous materials is a hefty increase in coverage even though limited to vehicles over 10,000 pounds GVWR.

Section 6 in earlier drafts contained only a general duty clause for employers. The bill now includes a new subsection 6(b) providing a duty clause for employees which requires compliance with standards, rules, regulations and orders issued pursuant to the Act. The addition of this subsection is laudable because it recognizes that a compliance duty should be required of employees as well as employers. We would further suggest that the duty provisions in subsection 6(a) be combined with that in subsection 6(b) so as to require the same standards of compliance for both employers and employees. Combining the two subsections by primarily utilizing the language of Section 6(b) would not adversely lessen the duty compliance obligations of either employers or employees. It would eliminate the general duty clause which has caused many problems in application under the Occupational Safety and Health Act. A fairer and more rational enforcement of safety regulations is accomplished under specified rules, rather than any vague duty to act safely.

Section 7: Regulatory authority and standards

Section 7 would require the Secretary of Transportation to review and revise Bureau of Motor Carrier Safety regulations to assure proper maintenance, safe scheduling and healthy, capable drivers.

While emphasizing the items specified in subsections 7(a)(1) to (3) provides no difficulties per se, the language in subsection 7(a)(2) including "duration, frequency and scheduling" and "driver fatigue" could involve the Department of Transportation in labor issues unrelated to safety, such as assigning certain drivers to certain routes. Rather than specifically delineating these items, it would be preferable to leave subsection 7(a)(2) in general terms. With such language the Secretary would be able to determine what involvement from a safety standpoint is necessary and desirable, without infringing upon items more traditionally the subject of labor-management negotiations.

There is no dispute that the current "hours-of-service" regulations are safety related. They detail how long a vehicle may be operated by an individual without a rest break. However, the language as currently written in subsection 7(a)(2) could be used as a justification for involvement in union driver seniority rules—a matter better left to labor-management negotiations.

Subsection 7(a) also needs amendatory language to assure that the Secretary would look to the Federal Highway Administration to carry out the legislation. It is important to clearly establish that the Federal Highway Administration through the Bureau of Motor Carrier Safety is authorized to carry out the provisions of this Act. Much practical expertise in motor carrier safety compliance currently in the Bureau would be lost if another group were chosen to administer this bill. By referring to 49 U.S.C. 1655(e), the bill presently authorizes the Secretary of Transportation to carry out the provisions of the Act. Adding a reference to 49 U.S.C. 1655(f) as well would properly tie implementation into the Federal Highway Administration which regulates motor carrier safety through its Bureau of Motor Carrier Safety.

Digitized by Google

Subsection 7(b) contains a significant problem by requiring employers through agency rulemaking to implement safety programs "to the extent technology permits." Recent trucking industry experience with the 121 brake standard of the National Highway Traffic and Safety Administration clearly indicates that a safety device can be technologically permissible, but practically inoperable. The industry has experienced massive problems with the anti-lock portion of the new brake systems. While the rest of the braking system generally works, the anti-lock portion often does not or works improperly. While anti-lock may have looked fine as a technological development, the system often cannot remain operable in normal use.

What is needed is a reference to "practicability" in subsection 7(b). Safety standards should be technologically permissible and able to be implemented from a practical standpoint. The trucking industry should not be required to purchase costly and potentially dangerous equipment merely because an exotic, but untried, technology exists.

Finally, subsection 7(d) should be stricken from the legislation. If enacted, this subsection could become a source of legal challenge every time the Secretary decides to promulgate or revise a safety regulation. The materiality test therein begs judicial interpretation.

At one time Federal Motor Carrier Safety Regulations required that axes be carried on buses for use in case of fire or entrapment. After many years the Bureau received no reports that the axes were ever used for safety purposes, but did receive reports of the axes occasionally being used by passengers on other passengers! Could BMCS easily repeal this requirement—as it did—if subsection 7(d) were in existence?

Subsection 7(d) could become a major obstacle in achieving the purposes of S. 2970, and we believe it should be deleted in its entirety. In view of the purposes of the Act, the Secretary has more than adequate direction concerning the safety protections of motor carrier employees.

Section 8: Record-keeping, inspections and investigations

Two significant problems remain in Section 8 of S. 2970. Subsection 8(b) would require, "whenever practicable," that the Secretary conduct motor carrier inspections without advance notice. While there is no objection to unannounced inspections, the "whenever practicable" requirement is too restrictive. The Secretary should have permissive authority in this area without being required to make a finding of practicability. There undoubtedly are circumstances under which the Secretary would want to make an unannounced inspection. But in the majority of cases, it would be advantageous to the Secretary's staff to gain assurance that responsible carrier staff and appropriate records are available to inspectors when they appear. These matters ought to be left to the discretion of the Secretary.

Additionally, we believe that the last sentence of subsection 8(b) should be deleted. This section could create serious labor difficulties regarding who is the appropriate employee representative in a given situation. These matters should be left to labor management negotiations.

Finally, ATA has very strong objections to the employee complaint procedure outlined in subsection 8(c). The Bureau of Motor Carrier Safety presently receives complaints from motor carrier employees and can take action thereon. But subsection 8(c) would require the Secretary to devote an inordinate amount of resources to this program. This subsection requires the Secretary to conduct investigations and take other action each and every time he believes that a violation may have occurred. The unnecessarily duplicative action created by this subsection could strain agency resources to the detriment of other, more important compliance efforts as it has in the case of the Occupational Safety and Health Administration.[1]

---

[1] "OSHA should better screen employee complaints and more selectively respond to them. Improvement of inspection strategy requires analysis of inspections generated by employee complaints. In several OSHA area offices, the backlog of complaint inspections has become sufficiently large to preclude other types of inspections entirely. Some of the suboptions being considered include ways of eliciting better information on complaints, developing criteria for selecting and prioritizing those complaints to which OSHA will respond, and establishing resource-saving limits on the scope of complaint inspections." Intragency Task Force on Workplace Safety and Health First Recommendations Reports, April 26, 1978.

Digitized by Google

Under the present procedure, similar complaints can be acted upon without losing sight of other important safety issues. Strong action can and is being taken against serious patterns of violation, and complaints alleging significant violations can already be dealt with expeditiously.

Finally, subsection 8(c) places no burden upon employees to seek redress from the employer before filing a complaint with the Bureau of Motor Carrier Safety. Most complaints are easily handled by voluntary action, yet the basic thrust of this subsection seems to cut out that readily available mechanism. Subsection 8(c) should be deleted.

Sections 9, 10, and 11: Citations; civil penalties; enforcement and review

The citation and civil penalty provisions are unjustifiable, especially in view of the mutiplier effect of the language in Section 9 permitting each day of a violation to constitute a separate offense. Additionally, the unreasonably high penalties have not been limited to significant safety violations. Finally, the citation approach puts an unfair burden on the carrier to prove it is not at fault, an approach which would lead to costly litigation in view of the penalty amounts involved.

Under current law, civil penalties are available for motor carrier record-keeping violations. Most safety violations result in record-keeping violations, and large assessments are already being made under current law. Recent dispositions by the Bureau of Motor Carrier Safety of charges for record-keeping violations against motor carriers range from $200 to $10,750. (Tansport Topics, July 17, 1978, page 18.)

ATA strongly opposes Sections 9 through 11 of S. 2970 as a safety enforcement device. These sections could well have the effect of penalizing heavily those carriers which are assiduously trying to improve their safety compliance record while penalizing less heavily those making little or no safety compliance effort. Normal operations inevitably lead to burned out light bulbs and other insubstantial equipment failures. The carriers more regularly checked by the Bureau of Motor Carrier Safety would be constantly fined large sums of money. Those operating only a single or a few trucks would not be checked as often and could even go out of business, not pay the fine, and re-enter the business shortly thereafter. Yet, it is the marginal operator that often creates the most serious safety hazards.[2]

A more effective approach would be to codify the Secretary's power to place drivers and vehicles "out-of-service" should the Bureau's inspectors detect significant safety violations. With this statutory approach and given the increased enforcement level provided by this legislation, a stronger incentive for safety compliance would be created. Also, the impact of safety enforcement would be better equalized among carriers. If a truck is on the road with a substantial safety defect, it will be stopped from further movement until the defect is repaired.

This approach should merit further exploration by the Committee, especially in view of the face that it would eliminate the need for a great expansion in the governmental services necessary to hear and review contested citations as provided in Sections 10 and 11 of the bill.

Section 12: Employee suits

Section 12 does not add materially to improved safety compliance, rather it would stimulate litigation, waste private and governmental resources, and establish a potential source of disputes among labor representatives. This section is a version of a concept that has surfaced many times before.

The discharge of, or unfair discrimination against, any employee resulting from the filing of a reasonable safety complaint is abhorrent to the trucking industry. In recognition of this, trucking industry labor agreements generally provide mechanisms for the expeditious handling of such situations.

---

[2] A survey of the nation's truck drivers was recently conducted by Dr. D. Daryl Wyckoff of the Harvard Graduate School of Business. The results of the survey, which will be included in a study to be published at a later date, were released in June of this year. Covering more than 10,000 drivers in seven categories, ranging from owner-operators in the exempt for-hire area to company drivers working for regulated for-hire carriers, D. Wyckoff's survey shows that the exempt for-hire driver had the highest rate of reportable accidents per 100,000 miles annually—0.70%. The driver for the regulated for-hire common carrier had the lowest—0.19%. The survey also shows that the voluntary compliance with log book (driving time) and hours-of-service rules also was being violated by re owner-operators than other drivers.

Digitized by Google

Codifying these provisions, as proposed in Section 12, unfairly places the burden upon the employer to document thoroughly the steps taken with respect to any and all complaints in preparation for possible litigation. Additionally, the reasonable man standard in subsection 12(b), while of some help, is still sufficiently vague that it would be impossible to anticipate in a given specific case what has to be done. In our view, the potential for abuse is great.

The provisions of Section 12 also allow exemplary damages against an employer who has been found to have discharged unfairly an employee, but not against an employee who has been found to have filed a frivolous complaint. This is one manifestation of the strong anti-employer bias that exists in this section.

There are many other specific legal problems in the language of Section 12. How would this new procedure relate to current union grievance procedures? What is the difference between subsections 12(c)(i) and 12(c)(ii)? How would these provisions relate to the new DOT safety regulations?

Most disturbing to us is the net practical effect of Section 12. The language will inject a spirit of distrust and litigousness in the safety area, an area in which the best results are obtained via employer-employee cooperation.

ATA strongly opposes the inclusion of Section 12 in any safety legislation recommended by this Committee.

Section 13: State enforcement; Section 18: Federal pre-emption

Under S. 2970 the Federal Motor Carrier Safety Regulations would be made applicable to all commercial motor vehicles over 10,000 pounds GVWR (gross vehicle weight rating) both those in intrastate as well as interstate commerce. Each state would have the option of continued federal enforcement or state enforcement if a state qualified for federal aid to enforce those regulations within its state.

If the latter election is taken, the state would have to submit a plan application for federal aid. That application would have to specify that the state would adopt the uniform reporting requirements and uniform forms for record-keeping to be promulgated by the Federal Department of Transportation, and that all reports would be made to it.

Among the other specifications which would have to be included in the plan application, the state would have to show comparable inspection rights, a statement of legal authority and an assurance of adequate qualified personnel.

A hundred million dollars would be authorized each fiscal year from the Highway Trust Fund, and would be made available to the states on an 80/20 basis.

The federal aid program would act as an incentive for both enforcement and uniformity. The Highway Trust Fund authorization does not appear excessive when it is considered that a majority of states probably could participate rather quickly.

But there is a problem that needs resolving. A state, preferring to keep its own existing safety laws and regulations in effect, would be pre-empted by the provisions of Section 18 and would not be eligible to obtain 80/20 money under the provisions of Section 13. This could effectively eliminate many state regulations which are now meritorious and effectively enforced. We do not believe it is in the interest of furthering safety compliance that these programs should be eliminated.

Therefore, an amendment is necessary to Section 18 which would permit state laws in effect on the date of enactment to remain in effect. An additional amendment is needed to Section 13 to permit such states to qualify for federal aid where the state meets the other qualification criteria set out in the section. These changes would insure that existing and effective state regulations would continue to be enforced.

We also suggest that the Committee solicit the views of the states regarding this legislative proposal, especially with respect to Sections 13 and 18. Their participation would be vital to implementation of any legislation ultimately enacted.

Finally, subsection 13(a)(1) should be amended to require the states to notify the registrants of commercial motor vehicles of the federal commercial motor vehicle safety laws and regulations, and to secure from such registrants a written statement of familiarity with those laws and regulations. This would be of assistance in subsequent enforcement activities by both the Federal Bureau of Motor Carrier Safety and the various state agencies operating pursuant to approved state plans.

Digitized by Google

AMERICAN TRUCKING ASSOCIATIONS, INC.,
Washington, D.C., November 3, 1978.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, 5202 Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: Attached are the answers to the additional questions submitted for the record concerning S. 2970, the Motor Carrier Safety bill. We hope these will be of assistance.

Sincerely,

KENNETH F. STINGER.

Attachment.

QUESTIONS OF THE COMMITTEE AND ANSWERS THERETO

I. BACKGROUND INFORMATION

The work of the bureau of Motor Carrier Safety of the U.S. Department of Transportation has grown increasingly complex since formation of D.O.T. in 1967 and thus the Bureau has a serious need for increased manpower to adequately monitor the safety of motor carrier operations and enforce its safety regulations.

It is responsible for driver qualifications and controls, vehicle requirements, hazardous materials safety, safety and health of employees, noise control and cargo security. These areas of responsibility have become more difficult to handle because of the increased number of drivers and vehicles on the road; increased volumes and types of hazardous materials being transported; increased mileages being traveled; greater complexity of vehicle systems such as brakes; political and media pressures; pressures from the public, employee groups and employers; and increased Congressional mandates for control of safety and environmental matters as well as protection of employees and cargo.

According to BMCS Staff, the number of carriers for which it has responsibility has increased from 124,000 in 1967 to 150,000 in 1978. Data from the publication "American Trucking Trends (1976 Statistical Supplement)" shows that the average number of power units (truck tractors) per Class I Intercity Carrier has increased from 129.7 in 1965 to 219 in 1974. Ten miles for Class I. II and III Motor Carriers has increased from 140,311 million in 1965 to 218,000 million in 1974. ATA does not have ton mile figures for private carriers, the largest segment of the trucking industry, but the growth is no doubt comparable.

There are 3 to 4 million interstate motor vehicles for which the Bureau is responsible. Its staff of field inspectors in 1967 was 92 and today is 133. In comparison the Federal Railroad Administration has just received Congressional authorization to increase its staff of field inspectors from 500 to 600. The railroads have 1.6 million freight cars that operate on restricted rights of way and which travel limited mileage annually because they are only loaded on an average of every 29 days. Trucks, on the other hand, operate in a mix of traffic that has increased from 80,414,180 passenger cars in 1967 to 112,675,855 in 1977. Truck traffic has increased from 15,300,000 in 1967 to 28,334,333 in 1977. Trucks are loaded every 1 to 4 days. Typical interstate tractor semitrailer combinations travel 100,000 miles or more per year. In comparison to rail cars, trucks are highly sophisticated vehicles and thus there are many more features that are subject to regulation. There is one truck driver for each truck and so there are many more employees (in comparison to rails) subject to such regulations, as hours of service, driving rules, physical condition, skill and knowledge, licensing, driving record, etc.

The Bureau of Motor Carrier Safety has traditionally carried out three functions in relation to its responsibilities: development of regulations, education of motor carriers and employees, and enforcement of its regulations. It's the trucking industry view that the regulations now in effect are sufficient to assure safe operations of trucks if they are complied with.

The two most effective programs for compliance are the educational activities of the Bureau and its enforcement activities. In the 1950's and 1960's the Bureau's field staff spent hundreds of hours at trucking industry safety meetings explaining the regulations and what carriers should do to be in compliance. It also spent hundreds of man hours in the conduct of terminal inspections of facilities and records, and in the conduct of roadside inspections of vehicles

Digitized by Google

and drivers. The Bureau has cut back on its involvement in industry programs because of a shortage of manpower and also money to cover expenses of its field force. This has had a negative impact on its educational program. Hundreds of smaller carriers are not being told that they are subject to the regulations and how to comply with the regulatory requirements.

The Bureau has also cut back on the number of roadside inspections it conducts and this has had a negative impact on its ability to remove unsafe drivers and unsafe vehicles from the highways. Its program of terminal inspections has suffered to a lesser extent but the program tends to concentrate more on carriers with larger numbers of drivers and vehicles because of the Bureau's needs to utilize its manpower efficiently. Obviously, the facilities and records of a carrier with 100 drivers can be inspected more efficiently than the records of 10 carriers with 10 drivers each.

A report by the General Accounting Office titled "The Federal Motor Carrier Safety Program: Not Yet Achieving What the Congress Wanted" (May 16, 1977) recommends that the Bureau increase its roadside inspection activity and be more logical in its selection of terminal facilities for inspections. ATA believes that the most effective means of improving truck safety is through increased educational activity and increased roadside enforcement so that drivers and vehicles of all sizes and types of operations can be monitored more closely and so that unsafe drivers and unsafe vehicles can be removed from the highways more promptly.

Our answers to the questions posed are on the following pages.

II. ANSWERS TO QUESTIONS

Question. In your testimony, you state that the BMCS is understaffed to enforce adequately the existing regulations. In your organization's opinion, how many persons would be required for adequate enforcement of existing trucking regulations.

Answer. ATA believes that all three of the compliance activities (education, roadside inspections and terminal inspections) need to be strengthened through additional safety investigators and safety inspectors for the Bureau, and additional money to cover travel and other expenses of the added manpower.

1. For educational and terminal inspection activities we believe that the current number of investigators needs to be doubled. The number has been in a range of 92 to 133 since 1967 and has never been sufficient. It is imperative that motor carriers be better educated by BMCS on all rules . . . driver and vehicle, hazardous materials, noise, safety and health and cargo security. This is not being done at the present. It is imperative also that the terminal inspection program be strengthened so that, the basic compliance program of individual motor carriers can be monitored by in-depth checks of records and inspection of facilities, freight and vehicles.

We estimate that there should be a minimum of 250 investigators for terminal compliance programs and educational activities. These investigators would need to have an in-depth knowledge of all of the regulations of the Bureau (driver, vehicle, hazardous materials, noise, etc.) to monitor compliance and to educate carriers, drivers state officers and emergency personnel. Their pay levels would be in a pay range of $18,000 and expenses would be an additional $12,000 to $18,000. The BMCS staff can best estimate salaries and costs based on current pay and expenses for their investigators.

2. For roadside inspections we believe that it would be more practical to utilize individuals who can be specialists in inspecting drivers, vehicles and loads, and do not need the total knowledge essential for educational and terminal compliance programs. Through use of specialists training costs will be lower because their responsibility and their knowledge will be more limited. Yet, the quality of inspections would be high because of the specialization. The pay scale can be lower, in the $12,000 range, and thus more individuals could be employed for a designated budget level. Through specialization and increased numbers the focus on roadside inspections would be sharpened and more inspections conducted.

The National Highway Traffic Safety Administration utilizes specialists for its National Accident Sampling System teams at pay levels beginning at $10,000. The experience of NHTSA should be studied to determine the practicality of utilizing individuals with limited skills at lower pay scales in the BMCS roadside inspection program.

Digitized by Google

The conduct of roadside inspections should be of such frequency in number that there is a high potential of a driver and vehicle being inspected on a given trip. This will be an incentive to motor carriers, private carriers and owner operators to make a stronger effort to be in compliance with driver and vehicle requirements. Today, drivers do not expect such inspections. They know the probability of an inspection is almost nil and so there is a tendency by some to violate the regulations, and to delay essential repairs to vehicles.

There are approximately 1,300,000 tractor semitrailers registered in the U.S. The great majority of these are long haul vehicles operating in interstate commerce. Most such vehicles travel 100,000 miles or more per year. With consistency they are operated 3,000 miles per week, and in a month accumulate more mileage than the average passenger car does in a year.

To effectively monitor these vehicles and the drivers of them on a frequency basis there should be an inspection force capability to monitor each of them at least once a year. It is estimated that one inspector can inspect 8 vehicles per day for about 300 days per year. Administrative duties would account for the additional days of work of an inspector per year. On the assumption of 2400 inspections per individual per year it would be necessary to utilize 500 inspectors to provide an inspection capability of one inspection per year for tractor semitrailers. From a practical standpoint, some such vehicles might be inspected several times in a year and others not inspected at all. However, the coverage would be such that drivers would expect to be inspected and would thus do a better job of keeping themselves and their vehicles in good condition. They would not want to chance the possibility of failing an inspection and being placed out of service along the highway.

Question. In your testimony, you alluded to the "great variance in the industry". How would you suggest improving that uneven safety performance? Please be specific, keeping in mind that the results of the recent DOT strike force roadside checks showed that safety violations were widespread among all types of carriers.

Answer. There is a great variance in the industry in the extent of compliance with safety regulations. The Bureau does not have the manpower capability to locate and inspect carrier operations that utilize a very few vehicles. Owner operators change address frequently and can be located only when they are stopped en route at a roadside inspection. Many private and exempt carriers are unknown to the Bureau of Motor Carrier Safety and have never been notified that they are subject to the regulations. The National Transportation Safety Board recently dealt with the latter problem in a communication to the Bureau of Motor Carrier Safety which concerned investigation of a fatal truck accident and the finding that the motor carrier (Ford Construction Co.) was not aware that it is subject to the BMCS regulations.

Regulated carriers are, on the other hand, known to BMCS because they are carriers of record because of their certificates of convenience and necessity from the Interstate Commerce Commission (ICC). Each such carrier has been advised of its responsibility to comply with the regulations. The majority of such carriers have been inspected by the Bureau.

Obviously the level of compliance will be higher among those who know of their responsibility than for those who do not. The level of compliance will be higher for those who know of their responsibility and are more likely to be inspected than for those who have such knowledge but feel that there is little likelihood of being inspected.

The August, 1978 Roadside Inspection at Berwick, Pennsylvania consisted of inspections for a 5-day period, of 676 vehicles. The average traffic count of tractor semitrailers at this point is 30,000 for a 5-day period according to Pennsylvania Highway Officials. Of the 676 vehicles 352 were placed out-of-service because of imminently hazardous defects. This was 52 percent of the vehicles inspected and slightly more than 1 percent of the vehicles that would pass the check point in a 5-day period. The Bureau does a complete inspection only on vehicles that look or sound bad. This limited inspection procedure is a result of its manpower limitations.

There were more "Authorized For Hire" vehicles inspected than vehicles of "Private" and "Exempt" carriers combined. Yet the "Authorized" carriers are small in number in comparison with the other types. We believe that there are reasons for this. One is that owner operators are more likely to "skirt" an inspection point than are company drivers. An owner operator takes an alternate

Digitized by Google

route if his vehicle is in bad condition to avoid the expense in time and money of being placed out-of-service. The company driver loses nothing if his vehicle is inspected. In fact, if the vehicle is placed out-of-service the driver will be paid for the time delay. Another reason that for-hire vehicles may have been in larger numbers is that the inspection point was near major terminals of several carriers and so the frequency of for-hire vehicles at the check point would have been high and it would be impossible for drivers to skirt the check point as there was no alternative route to their terminals.

It should be noted, however, that the average number of violations per vehicle for "Authorized For Hire" carriers was considerably lower than the number of violations per vehicle for the other types of carriers.

It should be noted also that Authorized For Hire carriers had a better record of driver compliance, with only 3 percent placed out-of-service, compared to more than 4 percent for Private carriers and over 10 percent for Exempt carriers. Driver qualification violations were at a level of 5 percent for Authorized For Hire carriers, 20 percent for Private carriers and 10 percent for Exempt carriers.

We believe that the foregoing is practical evidence in support of our statement about the "great variance in the industry". A recent survey by Dr. Darryl Wycoff of Harvard University also demonstrated with certainty the high levels of compliance of the regulated motor carrier industry. This study is referred to in a footnote in our testimony.

Question. In your testimony, you oppose giving authority for civil forfeiture and increasing the penalty provisions, as set forth in S. 2970. You favor more "red-tagging", which is a more extreme and expensive method. Why do you oppose the more flexible civil forfeiture approach, where the fine can be tailored to the severity of the violation?

Answer. The "more flexible civil forfeiture approach" is imposed after the fact of a violation rather than at the time of the violation and so it does not stop an unsafe operation. The civil penalty is imposed at the judgment of the regulator and thus may have little relationship to whether or not safety was jeopardized or the past record of the carrier.

For example, a tractor semitrailer may have 27 lights as required by the BMCS Safety Regulations. Frequently those with smaller bulbs such as marker lights and clearance lights have a failure due to vibration of the vehicle over a period of time. Such a failure would not result in the vehicle being placed out-of-service but it could, on the judgment of the regulator, result in a civil penalty, even though the safety of the vehicle and the public was not jeopardized.

The current system of civil penalties is more equitable because the penalties can be imposed only for record keeping violations. In terminal inspections the inspector may find a number of record violations which indicate a deficiency in the carrier's compliance and safety program. A civil penalty can then be imposed and is more justifiable because it reflects a pattern of non-compliance rather than an isolated instance.

The out-of-service provisions are highly effective. They result in immediate removal from the highway of unsafe drivers and unsafe vehicles. It is a costly penalty because of loss of driver time, potential for customer illwill due to delay of freight, possible expenses for driver meal and motel costs, repair costs for the vehicle and tow truck services that can range up to hundreds of dollars.

The civil forfeiture provisions of S. 2970 are extremely inequitable because they place the burden of proof on the carrier to prove it is not at fault. The dollar maximums are unreasonably large. The full cost for both the carriers and government is excessive. These provisions will cause fines to be imposed most heavily on those highly visible carriers already making a safety compliance effort.

It's true that the civil penalty provisions do contain language designed to permit a flexible application of the level of fine. But that flexibility is more apparent than real. These provisions would be implemented through a cumbersome administrative and quasi-judicial process. Too much lengthy and costly litigation would be required for judicial interpretation of these provisions. The system itself is inflexible, despite the language on fines to be imposed.

Red tagging requires no new quasi-judicial mechanism and would not stimulate an endless stream of litigation. It is effective because it is harsh. If it is fairly administered, its safety compliance effects will be swift. Measured by its results it is a much more efficient mechanism than the civil penalty approach.

The CHAIRMAN. The next witness is Mr. Hugh Lacey, Private Truck Council of America.

Digitized by Google

STATEMENT OF HUGH F. LACEY, PRIVATE TRUCK COUNCIL OF AMERICA, INC., GENERAL TRAFFIC MANAGER, JOSEPH T. RYERSON & SON, INC., CHICAGO, ILL.; ACCOMPANIED BY RICHARD HENDERSON, DIRECTOR OF OPERATIONS; AND WILLIAM QUINLAN, SPECIAL COUNSEL

Mr. LACEY. Good morning, Mr. Chairman. I'd like to first introduce Mr. Richard Henderson, our director of operations for the Private Truck Council of America, on my left, and Mr. William Quinlan, our special counsel, on my right.

I have prepared a statement which is already entered into the record. I'd like to make some additional comments.

Today I do represent the Private Truck Council of America, the only national independent organization representing nontransportation companies which operate trucks in furtherance of primary businesses other than for-hire transportation. I'm currently a member of the board of directors and immediate past president. My comments obviously are directed at Senate bill S. 2970, the Truck Safety Act of 1978.

Our concern is that the thrust of the bill is directed toward the truck and not toward the driver. In 1976, according to the Bureau of Motor Carrier safety data, involving almost 26,000 truck accidents in only 1,500 accidents were there defects which may or may not have been contributory, or roughly 6 percent. In other words, defect-related accidents are relatively rare. Conversely truck and car drivers are the cause of 94 percent or more of the accidents. Unfortunately, passenger car drivers are at fault about 65 percent of the time.

It must be remembered that the typical truck driver is a professional whose livelihood depends upon his skill and statistics prove that there are almost a third less crashes involving trucks than passenger cars per million miles traveled. Whereas virtually every moment of a truck driver's time is covered by some regulation, the private automobile driver is tested only periodically. His activity is not regulated and his car is rarely inspected.

A measure of the concern that the private truck operators have for safety on the highways is reflected in the time and money spent in the selection and training of drivers and their continuing education. Unfortunately, this is a very complex process involving individuals who are largely without supervision throughout their working day. There are many human factors that can contribute to an accident, including inattention, fatigue, drinking, excess speed, use of drugs, et cetera.

Poor driving skills would include following too closely, not driving defensively, unsafe passing, poor judgment, et cetera.

These also contribute to accidents. These human factors and driving skills are directly related to the proper selection of the driver and his training. Those engaged in private truck operations do have ongoing programs and are constantly on the alert for better means of training drivers and enforcing adherence to safety rules.

Most private truck operators have as part of their safety programs an award system for safe driving.

Our concern with the instant bill is that it really adds to the long of rules and regulations presently in effect. As I said before, the

Digitized by Google

thrust is aimed at the vehicle and not the driver. The activities of the truck driver today are more closely governed and are covered by more rules and regulations than any other professional group except commercial airline pilots. He must be 21 years of age; be able to speak and read English; carry a doctor's certificate; be periodically examined; and possess a valid chauffeur's license. He is by law required to examine his vehicle and the lading prior to his departure in some detail and periodically throughout the day. He cannot be forced to drive an unsafe vehicle. As a matter of fact he is completely protected by union grievance procedures and, as a last resort, the National Labor Relations Board, should he refuse to drive an unsafe vehicle or if he brings to the attention of the proper authorities unsafe vehicle or driving conditions.

I know of no council member who would permit an unsafe vehicle to leave the terminal. Breakdowns and accidents cost money, result in bad publicity and certainly run contrary to the professional ethics of the typical safety director. In most instances the driver is required to fill out a daily form listing any defects in the vehicle requiring attention. Many times the driver is informed of the action taken. It is, therefore, our sincere opinion that driver education is the major key to improved highway safety.

Access to the National Driver Register would be most valuable. We don't need additional laws and regulations. We don't need S. 2970. We do need greater compliance with existing rules and regulations and we, therefore, applaud the efforts of the Bureau of Motor Safety to seek additional funds to add to its present 133 investigators who have the impossible task of regulating millions of trucks and drivers.

Better driver selection, education, and better enforcement of existing laws will bring about safer conditions on the highways.

The vehicles are not the problem; the drivers are.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Lacey, in your statement, you say that the Private Truck Council of America supports the need for increasing Federal funding for the Bureau of Motor Carrier Safety as well as financial assistance to the States to expand their inspection program.

Now this bill calls for $100 million to be drawn from the Highway Trust Fund to assist the States in their safety program. Do you believe that that level of funding is appropriate or, if not, what level of funding do you think would be appropriate?

Mr. LACEY. The gentleman said, I believe, from Nevada, that this is a tremendous sum of money and I am unable to comprehend it. I am concerned and believe that in the process of transferring funds from the Federal to the State level, that you lose quite a bit.

I'm also a bit confused as to how you would determine what the State would regulate and inspect and what the DOT would regulate and inspect. If the criteria were to be interstate versus intrastate truck shipment, I don't really know how this distinction could be easily detected.

I guess to sum up, Mr. Chairman, I believe that if the funds were available, I'd much prefer to have the Bureau of Motor Carrier Safety put on more inspectors to do the job.

The CHAIRMAN. It's my understanding that the Bureau of Motor Carrier Safety has only 133 inspectors for the over 4 million trucks on

Digitized by Google

the road today. You say you support increased funding of that bureau. I wonder if you have any estimate as to how much of an increase in inspectors you believe would be necessary to adequately regulate?

Mr. LACEY. It's a ballpark figure, and I don't really have any idea. It would require a tremendous increase in staff to do an adequate job of inspection and enforcement.

The CHAIRMAN. Would you say it would have to be tripled, quadrupled, by a factor of 10? Can you give us any kind of an estimate?

Mr. LACEY. I would say at least a tenfold increase, yes, sir.

The CHAIRMAN. In your statement you say, I'm quoting, "To repeat, the driver causes the accident, not the vehicle."

Now how do you reconcile that statement with the findings of this inspection recently in Pennsylvania which found numerous serious truck safety defects across a whole spectrum of commercial motor vehicles. It seems to me that you're placing an unfair burden on the driver, when 54 percent of these trucks were found to have serious enough defects, to have been taken off the road.

Mr. LACEY. I'm very concerned about this, about that test. I'm sure it's a factual and good test, Mr. Chairman. I feel, though, that many of the defects uncovered in these types of inspections would not necessarily contribute to an accident. I get back to my basic figure of 6 percent of all the accidents may have been caused by vehicle defects. I'm also mindful of the fact that nowadays a random inspection of vehicles coming off the production line would disclose defects that might sideline that vehicle.

I'd also like to point out, Mr. Chairman, that some of these defects occur enroute, such as lights failure, brake difficulties, other failure due to metal fatigue, et cetera. All kinds of things that were not present at the time that the vehicle left the terminal do occur on the road.

The CHAIRMAN. I agree with that, but that it makes it all the more clear to me that you shouldn't be singling out and placing all the blame on the drivers, when you've got defects in these trucks that do occur. That high a percentage was really a shocker to me, when I saw the results of that test.

Mr. LACEY. I was concerned too, believe me.

The CHAIRMAN. Yet you heard later testimony that the test was conducted at Wendover, Utah, and St. George, Utah. It came up with substantially the same percentage factors.

Mr. LACEY. This is a very serious thing. These vehicles should be out of operation, in case that defects of this kind are discovered. I have no argument with that at all. I also say we need more inspectors to detect more difficulties, such as you have mentioned.

The CHAIRMAN. Do you have any specific statistics as to the numbers or percentage of accidents that are caused that are driver-related?

Mr. LACEY. If 6 percent or less are caused by vehicle defects, sir, 94 percent or more, perhaps are due to driver activity, both truckdrivers and passenger car drivers.

The CHAIRMAN. Where do you get those statistics?

Mr. LACEY. Those are from—the Bureau of Motor Carrier Safety review of 1976 truck accidents, something like 26,000, less than 1,500 of which were caused by vehicle defects.

Digitized by Google

The CHAIRMAN. In an earlier statement by the Deputy Administrator of the FHA, Mr. Hassell—he said that present sanctions are inadequate to stop violations of safety regulations in the truck area. He also argued for the need for increased civil penalty provisions. In your statement you raised questions as to the effectiveness of increasing the penalties and fines in the truck safety area. What other approach would you suggest would be effective in deterring violations of truck safety regulations?

Mr. LACEY. Senator, I tried to zero-in on driver selection, better driver education, and continuing educational programs.

You see the problem you have is this: The driver could be the best driver in the world. He leaves at 6 or 7 o'clock in the morning, and he's not back until 6 or 7 o'clock that night. He's totally without supervision throughout the day.

Now, we do our very best to train our drivers and to encourage these safety programs, but we really have no way of determining how well he does. That's all I'm saying.

The CHAIRMAN. Thank you very much, gentlemen.

Mr. LACEY. Thank you, sir.

[The statement follows:]

STATEMENT OF HUGH F. LACEY ON BEHALF OF THE PRIVATE TRUCK COUNCIL OF AMERICA

My name is Hugh F. Lacey and I am General Traffic Manager for the Joseph T. Ryerson Company of Chicago, IL. I am currently a member of the Board of Directors of the Private Truck Council of America and its immediate past President.

The Private Truck Council is the only National independent organization representing non-transportation companies which operate trucks in furtherance of primary businesses other than for-hire transportation.

I am pleased to be here to offer Council's comments on S–2970. I would first like to comment on some of the remarks made by Senator Percy as they appeared in the Congressional Record on the day that he introduced the bill, April 20, 1978.

We question the Senator's statement that of the 45,000 highway fatalities in 1975, over 20 percent were caused by trucks and buses. To say that of the 45,000 accidents trucks were involved in 20 percent of these accidents is one thing, and perhaps that is more accurate. Such a percentage of involvement is not surprising because of the high exposure potential of trucks considering the number of miles driven per year as compared to the average automobile. And the majority of these miles are driven on the open highway as compared to locally driven automobile miles.

To say that the truck was the cause of the accidents, we seriously doubt. We know the accident reporting procedures of the DOT and we know that there is no way it can always determine clearly and establish that in fact the truck was the cause.

All of this is not to minimize in any manner the problem of truck safety, nor to imply there is nothing further that can be done about it. That is not our policy. But all we are urging here, is greater care in the use of the statistics and cautioning against the common mistake of placing the blame in every accident on the truck, when in fact the truck might have been properly maintained with the driver following every rule of the road, yet the accident is unavoidable. A point often lost sight of is that more than 95 percent of all accidents on the road are due to driver error. Relatively few accidents are due to mechanical failures. Most of these drivers are drivers of private automobiles, unprofessional, untrained, and unregulated.

We respectfully take issue with the Senator in his statement that because over one-third of the trucks and buses inspected by the BMCS in 1976 were ordered off the road and because the Bureau inspects less than 1 percent of the trucks a

Digitized by Google

year, that therefore, the number of trucks really driving on the road, which should be ordered off the road is many, many more times greater. Though this contention is often made, it has no validity whatever. The resources of the BMCS are limited and when they do conduct inspections they use the sensible and reasonable method of purposely selecting for inspection only those trucks with the obvious appearance of being below mechanical par. It is therefore, quite incorrect to assume that that same rate of out of service vehicles would continue throughout the entire truck population.

While on the subject of inspection, we wonder to what extent the Bureau's efforts have been directed to determining the extent of MVSS 121 malfunctions. And to what extent has MVSS 121 contributed to accidents?

Further, we challenge the General Accounting Office's statement that, "in view of the limited accident data obtained, the continuing infrequency of safety inspections and the high rate of trucks taken out of service after inspection, little assurance exists that most motor carriers are complying with Federal Safety Regulations". GAO has no basis for making such an assumption.

Before I leave the whole question of accident statistics, reporting, causes, and inspections, I would like to make one additional observation.

When the DOT collects accident data it is important for them to report the kind of truck operator involved in the accident, particularly if the driver is what is known as an owner operator. Sometimes private fleets are confused with the owner/operator. We do not represent them. And we ask the question to what extent do they follow the rules of the road?

Senator Percy further discusses at some length, the question of penalties and fines and proposes a substantial increase in the maximum fines. Maybe some adjustment is necessary. But, we would also question to what extent have judges now impose the maximum fines. Merely increasing the penalty or raising the fines is not the magic answer and its value as a deterrent is questionable.

Another issue brought up has to do with the matter of employees, or truck drivers, reporting unsafe vehicles or other safety violations to the Government. The Senator indicates that there have been many instances where drivers are fired for refusing to operate vehicles in violation of Federal Truck Safety Laws. We seriously question how much evidence there is to support this. Let's stop for a minute and look at some of the current driver requirements. It is his legal obligation to inspect the truck for any safety defects before starting out on his trip and periodically during the trip as well. When discovering a safety defect he already has an obligation to report it, and does.

The issue of employer reprisal does not exist based on my experience. And, assuming it did, the driver has recourse through regular union grievance procedures, and if that fails, the National Labor Relations Board.

While on the subject of truck driver relations let us remember that he is among the most regulated of employees. There is a provision in the code for literally every minute of his working time. And this, contrasted to the driver of the private automobile who is not subject to any regulation other than getting an eye examination and license renewed every few years.

Finally, if there is any problem in the area of employer-employee relationships it is not fear of reprisal on the part of the driver, but rather in management's difficulty in disciplining a driver who does not follow the rules. Management is often frustrated when trying to discipline an unsafe driver because of long, tedious union grievance procedures.

We do agree with the provision in this bill and the Senator's comments regarding the need for increasing Federal funding of the Bureau of Motor Carrier Safety as well as financial assistance to the states to expand their inspection programs. We support this and have for years, because our basic intention has always been, that if we had fair and adequate enforcement of the rules that now exist, if the BMCS could exercise fully the authority it now has, this would do more to reduce accidents and promote safety than any of the other provisions in this proposed legislation.

We now direct our comments to the remaining provision of S–2970.

The bill would authorize the Secretary of Transportation or the BMCS to regulate working conditions and operating practices of employees to insure the trucks are so maintained as to prevent accidents and to conduct research under new enforcement techniques and training programs. We again point out that the DOT already has ample authority to insure that trucks are properly inspected and maintained.

Digitized by Google

There is certainly nothing wrong with conducting research into new enforcement techniques and training programs. As to training, I might observe that private truck fleets are constantly developing new training approaches and techniques. Any reputable company has good driver selection and training programs. Good business dictates it. This is all management can do. It can't control him while driving. It can try to discipline him afterwards if any wrongdoing is learned of.

Next, the bill would authorize the Secretary to conduct on the job inspections and investigations. Again, we point out that the BMCS already has the authority to do this, and, in fact does exercise it. The degree to which they exercise it depends on their resources.

That portion of the bill which gives truck drivers the right to require DOT investigations of violations of safety regulations, is a clear and unwarranted intrusion of Government into what is properly the domain of management. And furthermore, as we have pointed out, the Bureau of Motor Carrier Safety itself already has authority and responsibility to conduct on site investigations where violations of safety regulations are suspected. We fail to see how the process would be facilitated to any greater degree by giving the drivers the right to require such investigations. This could in fact work in reverse by guaranteeing that the drivers have the right to harass their own management, as well as waste the resources of the Bureau on investigations when they may not really be needed. To repeat, the driver causes the accidents, not vehicles.

The provision to require the DOT to serve citations upon alleged violators of safety laws who would then be given 15 days to notify DOT of their intent to contest the citation, is merely a procedural penalty change. It gives no power that the DOT cannot or does not now in effect exercise.

We oppose the two provisions dealing with the National Transportation Safety Board, one which authorizes an administrative adjudicatory hearing before the Board in cases of contested citations and the other providing for judicial review and enforcement of Board decisions, and orders. We urge that the National Transportation Safety Board be retained as an independent accident investigatory body. To bog the Safety Board down with judicial review proceedings would only tend to divert the resources influence and effectiveness of that very important agency away from its primary objective, that of investigating major accidents and determining causes.

We strongly support the measure which would require the Bureau of Motor Carrier Safety to file an annual report with Congress. Congress certainly has the right to exercise its oversight responsibility and clearly should do so.

In summary Mr. Chairman, we feel that S–2970 provides little if anything meaningful toward promoting greater truck safety. We fail to see how any of its provisions other than those calling for better enforcement would have any real effect on Safety. To a large extent it is aiming in the wrong direction. It does nothing to help management foster better safety practices among its drivers.

Briefly and finally, the existing Bureau of Motor Carrier Safety regulations are adequate and with sufficient resources for proper enforcement, it could do the job the public deserves.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Bartley O'Hara, legislative attorney, International Brotherhood of Teamsters.

STATEMENT OF BARTLEY O'HARA, LEGISLATIVE ATTORNEY, INTERNATIONAL BROTHERHOOD OF TEAMSTERS; ACCOMPANIED BY GEORGE MERNICK

Mr. O'HARA. Good morning, Mr. Chairman. Mr. Chairman, I'm Bartley O'Hara. With me is Mr. George Mernick. He's on the staff of the safety and health program of the international union.

Before we start, Senator, we'd like to thank you for your indulgence and tolerance yesterday in hearing our concerns on S. 3431. Our members were tremendously satisfied with it, and again, we'd like to thank you for it.

Digitized by Google

We're appearing here on behalf of General President Fitzsimmons, who is unable to be here today.

We believe the bill before the committee is an important step in providing additional safety protection for truckdrivers. In that regard, we would like to highlight a number of the important features of the bill.

First, section 17 requires that ICC continue to consider a carrier's record of compliance with safety regulations as a principal criterion for determining whether to control operating authority on motor carriers. While we believe that this may be somewhat blunted by efforts to remove economic regulations in the motor carrier industry, it is nevertheless an important improvement in transportation safety.

Next, the bill provides additional statutory authority in the area of truck safety. At the present time the provisions of the Interstate Commerce Act as administered by the DOT, are inadequate to meet the needs of our members. For example, this law does not contain provisions authorizing inspection of an employer's premises. In addition, the most comprehensive of all safety laws, OSHA, is far superior to the current provisions of the existing statute. Thus this bill, by effectively OSHAizing motor transportation law, will not only provide protection, but it may also reduce the jurisdictional problems between the DOT and the Department of Labor.

In addition, we have a number of concerns with the bill. For example, it only applies to the operation of motor vehicles with a gross weight rating exceeding 10,000 pounds. We believe this is an error, because it will encourage unsafe operations of a significant number of vehicles.

In addition, the bill does not spell out time limits within which safety regulations are to be promulgated by the Secretary of Transportation. To overcome this, we would suggest promulgation of a final decision on a rule no later than 1 year after a petition is filed. Of course, exceptions could be made for extraordinary situations. We have found that delay plays an important role in the promulgation of certain safety regulations.

To cite but one instance, the step and handhold regulations took nearly 7 years from the filing date to the effective date.

With regard to State transportation safety plans, it gives us pause, primarily because the OSHA experience has proven to be less than satisfactory. In addition, we are advocates of uniformity in the safety area, and this should be an absolute must in the area of truck safety, due to the interstate nature of the trucking industry.

As to employee suits, section 12, we have but two requests: First, that owner-operators be considered employees if they are working on a lease arrangement with a common carrier and second, that all employees, union and nonunion alike, be given equal rights.

Finally, we would encourage the committee to authorize sufficient funds to enforce the law among all carriers. As a general rule, the large carriers receive ample attention from regulatory authorities, but the small carriers are often overlooked. The major reason for this is lack of personnel and funds to provide consistent treatment of all carriers.

In closing, we would again note that S. 2970 would provide increased protection for workers in the trucking industry, but we believe the bill needs improvement in a number of important areas. Thank you.

Digitized by Google

The CHAIRMAN. Thank you, Mr. O'Hara, for your statement.

You suggested that delay is one of the most serious problems in truck safety. Do you feel that an administrative proceeding like the one suggested in S. 2970 would alleviate the delay problem?

Mr. O'HARA. Senator, I think that in reviewing the provisions of the bill, you may want to take a good look at. I believe the operative word in the bill is "timely." But you may want to focus it down a little bit closer than that, and put some time limits on the promulgation of a number of these rules. Again, the step and handhold—Mr. Mernick may have some other examples in the same area.

Mr. MERNICK. Well, Senator, we petitioned in a number of areas for improvements in driver safety rules, to protect his health or his safety as an employee, to try to provide better protection for him, that workers in the general work force can obtain through the Occupational Safety and Health Act. We found that almost exclusively, the regulations of the Bureau of Motor Carrier Safety presently are aimed at protecting the public from the dangers of heavy trucks, and as such are directed to highway safety. We find very, very few regulations that address the fact that a truck driver is an employee and is entitled to protection from the hazards of his workplace. It's in that area that we find very, very significant delays once we petition for a rule, before that rule finally becomes effective.

The CHAIRMAN. Well now, in your statement you stress the need for uniformity in State regulations. That's a view not shared by all the witnesses. On what experience do you base that belief? Would you explain?

Mr. O'HARA. Well, I suppose we might even go back a step further. Yesterday we were over here testifying on allowing the States to continue to have the right to themselves on the truck lengths. We're over here today talking about uniformity. With regards to the lengths, it's just traditionally been that way, and we see it not changing. But in this area, you know, as long as we're moving into a new area, uniformity should certainly be an objective. It shouldn't be the exclusive objective, but we think that where it can be achieved it should be.

The CHAIRMAN. What sorts of things are you talking about? Give me a few examples.

Mr. O'HARA. For example, you might have in the situation—well, out in your area, in Nevada, where you have a lot of sand and so forth and so on, you're going to have different road conditions than you are in South Carolina or Virginia. Obviously, there are going to have to be some adjustments there.

But again, to go back to the step and handhold, on a particular piece of equipment uniformity would probably be a major requirement, or probably the most important of all are the hours of service. Some of the other witnesses have testified earlier, those rules, the present rules, are being reviewed now by the DOT.

The CHAIRMAN. Those rules are not made independently by the States. This is uniform anyway.

Mr. O'HARA. Yes, sir. But with this bill, at least the way we read it, there may be an opportunity for some of the States to have their own hours of service provisions.

The CHAIRMAN. I see.

Digitized by Google

Now, some industries have historically received exemptions from the truck safety regulations, including hours of service and recordkeeping requirements. How would you evaluate these exemptions, and would you consider it a good policy to extend them?

Mr. O'HARA. On the recordkeeping, I'm not that familiar with recordkeeping, and I don't really think I could give you that intelligent an answer, Senator. And the other area besides recordkeeping was?

The CHAIRMAN. Hours of service.

Mr. O'HARA. Hours of service. Again, I would defer to Mr. Mernick, if he had any thoughts on that.

Mr. MERNICK. Senator, in the area of exemptions generally, we have not favored exemptions from the Bureau of Motor Carrier safety rules in any of these areas, be it the 10,000-pound exemption which we opposed a few years ago, hours of service for certain classes of drivers and certain operations, or, for that matter, intrastate operations. We find that too often the temptation is to let the intrastate operations of the various exempt operations become the dumping group for unsafe equipment or practices, and that's what we'd like to avoid by installing just blanket rules that apply to interstate and intrastate.

The CHAIRMAN. You said in your statement that large carriers receive more intensive regulatory attention than do the smaller carriers. You heard my question here today, and that was denied. And incidentally, the spot check in Pennsylvania indicated that the violations of safety regulations were distributed among all types of carriers.

I'm wondering on what data you base that assertion?

Mr. O'HARA. Senator, it's just generally speaking with our people in the field. The universe that we're talking about is relatively small. We feel that there should be more inspections, so we're not talking about every carrier in the country being inspected every day, but just the physical situation of large carriers. It's very easy to go to a large carrier's terminal and inspect his equipment than it is for a small carrier, who may not even have property other than his home to park his truck.

The CHAIRMAN. The ATA suggested that the duty provision in subsection 6(a) be combined with that in subsection 6(b), so as to require the same standards for compliance for both employers and employees. Would you comment on that proposal?

Mr. O'HARA. Senator, I think that the areas that you're to be responsible for should apply to you. For example, if the equipment on the truck is unsafe, we don't think that the employee should be penalized for it. We see that as the employer's responsibility. And again, I would say that the way the bill is written now, it pretty much reflects my answer here.

The CHAIRMAN. I don't know if that's getting right precisely at what they had in mind here. Let me read to you from part of their statement:

"We would further suggest that the duty provisions in subsection 6(a) be combined with that in subsection 6(b) so as to require the same standards of compliance for both employers and employees. Combining the two subsections by primarily utilizing the language of subsection 6(b) would not adversely lessen

Digitized by Google

the duty compliance obligations of either employers or employees. It would eliminate the general duty clause, which has caused many problems in application under the Occupational Safety and Health Act. A fairer and more rational enforcement of safety regulations is accomplished under specified rules, rather than any vague duty to act safely.

Mr. MERNICK. Senator, we disagree with that on this basis: First of all, employees don't buy trucks and don't dispatch trucks. It's the employer who does that, and it's his obligation, we feel, to see that when that vehicle is purchased and dispatched, to see that it's a safe vehicle and it has a safe workplace. We certainly, under the Occupational Safety and Health Act, support the concept of the general duty clause. We feel it's very, very necessary for many situations. When you hear the complaint that there are so many regulations that we can't possibly follow them all, that may be true in some instances. On the other hand, you can't regulate every single circumstance that's going to arise in the course of a working day. There are many practices you and I could look at and, as reasonable people, assume are unsafe. And I think what the general duty clause accomplishes is to say, in broad terms, avoid those unsafe practices.

The CHAIRMAN. All right. Thank you very much, gentlemen.

Mr. O'HARA. Thank you, Senator.

[The following information was subsequently received for the record.]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. In your testimony, you referred to delay as one of the most serious problems in truck safety, but that criticism was directed towards rulemaking procedures rather than enforcement of existing regulations. Would you clarify your position on delay with respect to enforcement? Do you favor the civil forfeiture provisions and the administrative procedures set forth in S. 2970?

Answer. Enforcement by the Bureau of Motor Carrier Safety is fairly expeditious.

It has been our experience that in contacting BMCS the problem is the availability of personnel to perform inspection procedures.

That is, the Agency has 133 inspectors who are responsible for ensuring compliance with the Interstate Commerce Act, by some 160,000 motor carriers who own literally millions of trucks.

Thus, the problem of enforcement is in our view, not the attitude of the inspectors but, rather, the immensity of their workload.

We believe the civil forfeiture features of S. 2970 are adequate. But, as we stated in our testimony we believe all Administrative actions should be circumscribed by strict statutory time limits.

Question. How many complaints of employee harassment has your union received over the past 3 years (Please set out year-by-year figures)? How does your union handle those complaints?

Answer. The International Union does not believe complaints of employee harassments, thus we would have no figures on this.

If a worker represented by our union believes he—or she—is being treated unfairly, a grievance is filed with the employee representative, usually a shop steward, and the matter is taken up with the employer.

Question. Would you comment on the proposal made by the American Trucking Association that the Federal Government should establish a national commercial driver register?

Answer. We would oppose the establishment of a national commercial driver register as it is currently proposed because it fails to provide adequate protection of an individual's right to privacy.

Moreover, we believe the national driver register contains an erroneous assumption, i.e., that drivers are the sole problem in highway safety and by establishing a national driver register the problem will disappear.

Digitized by Google

Question. Would you comment on the statement made by the Private Truck Council of America that "The vehicles are not the problem; the drivers are."?

Answer. The Private Truck Council has, obviously, given little time or attention to the conditions affecting workers employed in the Motor Carrier Industry.

For a detailed explanation we would refer to our statement on S. 3431, where a number of major equipment concerns are explained.

Beyond that, as far as we can determine, the organization making that statement lives in the fond hope that some day this country will return to a system of Government similar to the reign of Elizabeth I of England (1558–1603).

The CHAIRMAN. The next witness is Susan Ginsburg, safety and health director of PROD.

STATEMENT OF SUSAN GINSBURG, SAFETY AND HEALTH DIRECTOR, PROFESSIONAL DRIVERS COUNCIL (PROD); ACCOMPANIED BY ARTHUR L. FOX, COUNSEL; BILL BERRYHILL; ARMAND (BUD) MAYER; MILT McLARTY; BAILEY WHARTON; ROBERT DOYLE; GEORGE ZOJICEK; AND PAUL GEORG

Ms. GINSBURG. Mr. Chairman, we have quite a group here, and I'd like these gentlemen to introduce themselves before we get started. I'm Susan Ginsburg. This is Arthur Fox, counsel to PROD.

Mr. MAYER. My name is Armand Mayer.

Mr. WHARTON. My name is Bailey Wharton.

Mr. BERRYHILL. William Berryhill.

Mr. DOYLE. Robert Doyle.

Mr. MCLARTY. Milt McLarty.

Mr. ZOJICEK. George Zojicek.

Mr. GEORG. Paul Georg.

The CHAIRMAN. These are members of your organization?

Ms. GINSBURG. These are members of our organization, also members of the International Brotherhood of Teamsters, and all except one, drivers for the largest trucking companies in the United States—all regulated common carriers. They have an average of 19 years of experience on the road, and, combined 120 years of driving experience. We thought it appropriate that you hear from them today.

I have an extensive written statement which we've supplied for the record. Rather than reading from it, I'd like to pick up on a few points that were brought up today, perhaps fill in a few blanks.

First, though, I'd like to thank you for holding these hearings at this late time in the session when there are so many other things to do.

I think the most important thing that you asked about yesterday continually, and again today, is the facts and figures. So I'd like to read a few facts and figures that have been developed, but have not yet been brought out.

The first thing I'd like to say goes to the number of truckdrivers. This is a very important figure, because of the questions raised by Jim King of the NTBS as to what it would take to make S. 2970 work. The Bureau of Motor Carrier Safety commonly uses the figure of 3 to 4 million interstate truckdrivers. Mr. King suggested the figure of 9 million drivers in total. Well, this would mean that between 2 and 5 percent of the U.S. population were driving trucks for a living, and this is impossible.

Digitized by Google

The figures that are most reliable, I think, are those issued by the Bureau of Labor Statistics, which tell us that there are in the neighborhood of 500,000 over-the-road drivers. That's the general area. We will supply the exact figures for the last few years for the record.

The CHAIRMAN. Wait a minute, now. Go through that again. I want to make sure I understand.

Ms. GINZBURG. The figures given out by the Bureau of Motor Carrier Safety——

The CHAIRMAN. I understand what they said, the number of trucks, et cetera.

Ms. GINZBURG. The Bureau of Labor Statistics tells us that for 1972, which is when the last census was taken, there were 1,627,000 local truckdrivers, 508,000 long-distance truckdrivers, to provide a total of 2,135,000 truckdrivers.

The figures for 1976 are 1,594,000 local and route drivers, 467,000 long-distance truckdrivers, for a total of 2,061,000 truckdrivers.

I think that it's very important to understand that you're dealing with a limited popualtion, both to understand what the enforcement responsibility is and to understand the significance of the number of people who get killed every year, the number of truckdrivers. So I will read to you the figures that we have compiled on accidents and fatal accidents involving truckdrivers.

A heavy truck is about twice as likely as a car to be a place of death for the person in it. Approximately 4.8 heavy truck occupants are killed annually per 10,000 heavy trucks, versus about 2.4 occupants for 10,000 vehicles for all motor vehicles combined. I exclude motorcycles.

A June 1978 study in Wisconsin shows that the 1976 death rate per 100,000 workers for injuries incurred on the job was approximately nine times as high for truckdrivers as for all other workers combined in that State.

The fatal accident rate for trucks per million miles is twice as high as that for cars. This takes into consideration the fact that trucks travel more miles than cars.

From 1975 to 1977, the total number of truckdrivers killed on the job rose 36 percent, according to the NHTSA's reporting system—and we are providing all that information for the record in chart form.

In 1975, according to NHTSA, 587 truckdrivers were killed, 715 in 1976, and 799 in 1977. Total fatal accidents involving trucks increased over 29 percent from 1975 to 1977.

Total fatal accidents involving cars increased slightly over 4 percent; 5,477 people were killed in truck accidents in 1975, 6,314 in 1977.

These are figures compiled by the National Safety Council. Trucks are more dangerous than cars and more likely to be involved in fatal and nonfatal accidents. According to the NSC, tractor-trailers and other combination vehicles comprise less than 1 percent of all registered vehicles, but constitute 2.5 percent of all vehicles involved in accidents, over 7 percent of those vehicles involved in fatal accidents.

Now to look at truckdriving as an occupation. This is very important because one of the things S. 2970 does is to provide truckdrivers with occupational health safeguards similar to those provided to other American workers under OSHA.

Digitized by Google

The National Safety Council states that the number of workers killed on the job in this country, when all occupations are averaged together, is about 14 per 100,000. By comparison, the death rate in the mining industry known as one of the most dangerous, is 63 per 100,000.

A conservative estimate, definitely conservative, is that 70 per 100,000 truckdrivers are killed. These were figures for 1976, on-the-job, in-truck accidents. The reason I say conservative is because these figures are based on the NHTSA's fatal accident reporting systems data on the number of truckdrivers killed in out-of-State accidents.

The ratio used was with the total number of long-distance drivers, which does not include those drivers driving long-distance runs in intrastate operations.

More reasonable is a figure that we have compiled, based on the 1976 estimate of heavy-truckdrivers where we come out with a figure of 78 drivers killed in 1976 for 100,000 drivers.

Again this compares to 14 out of 100,000 as the national average, and for miners, 63 out of 100,000. We're dealing with a very dangerous occupation, perhaps the most dangerous in the United States, in terms of on-the-job fatal accidents.

Again, I just would like to stress that the number of full-time truck-drivers we're talking about, is far fewer than those used to provide the basis for an estimate of the number of ALJ's which would be necessary at the NTSB or DOT under S. 2970.

Second, a subject in which you expressed interest, although the bill does not deal directly with this—perhaps it should—is fatigue. You commented that a 30-year-old study was the basis of the rules. In fact, the rules were written even before that 30-year-old study, published in 1942, was published, and were not modified even after that study came out.

The process which is underway of considering the rules was started in 1971, when the Professional Drivers Council began to file rulemaking petitions with the agency. In 1978, we're still in the advanced-notice stage and the agency predicts that it will take several more years before final rules are published.

Because of the length of time the hours and other proceedings have taken at the BMCS, we were very encouraged to hear that the agency plans to take 6 to 9 months to issue rules regarding the cab size problem. It has taken about a decade for the Bureau of Motor Carrier Safety to promulgate even the simplest rules, such as the step and handhold rule to which the Teamsters referred earlier.

Another point that was brought out which I think should be addressed is the question of whether the bill discriminates among different segments of the industry, or in fact, whether current law or current practice does.

We do not feel that this is the case. The regulated common carriers complain that because they're the most visible entity, they are subject to the most regulation.

Smaller carriers complain that the fines fall disproportionately on them and the drivers here with me generally feel that in roadside inspections, regulated common carriers are favored.

The total judgments in criminal cases against all motor carriers under DOT jurisdiction—some 160,000 according to the BMCS—was 1,625 in 1977.

Digitized by Google

Now, rather than reading from the prepared statement, I think that it would be appropriate if we heard from a few of the drivers who are here and then answer questions.

The CHAIRMAN. Do these drivers all work for regulated carriers?

Ms. GINSBURG. They will each identify their carrier.

Mr. MAYER. Mr. Chairman, members of your committee, my name is Armand Mayer. I drive for Yellow Freight, the fifth largest trucking company in the United States. I've ridden with them on the highway for 16 years. I'm a member of the Teamsters Local 299, Detroit, Mich.

For years, I was a proud Teamster and I actually looked forward to making my next run, as my father before me, who drove a truck until an accident, which was caused because of poor maintenance on an experimental power steering system, put him out of work.

In the last few years, trucks have become smaller, they're loaded more heavily, they run on rougher interstate highways, and above all, are given less and less maintenance.

When I'm in my car with my family, the first thing I do when I approach a truck or a bus is get around it in a hurry. My personal experience in the last 6 years, one of my best friends, a truckdriver for Ford Motor Co., had a heart attack and died at the age of 33 years old. The doctor said it was because of the stress of so many miles driven.

Unless something is done to improve the ride in these trucks and to improve their conditions, more and more drivers will die at the wheel and take innocent motorists with them.

Since one of the main points of S. 2970 is to give the BMCS the power to fine companies who don't meet BMCS parts and maintenance rules, I would like to tell you about the maintenance at Yellow Freight System.

There's two classifications of trucks that I have been driving personally. One is completely worn out to the point that every inch of the inside and outside vibrates uncontrollably, that it steers uncontrollably, jumps out of gear in one or more gears, and brakes unevenly—if you can find the brake pedal, which sometimes is so loose that it drops 6 to 8 inches up and down.

The other type of trucks are the newer ones, 1 year or less old. They have busted seats, which the company after an argument will spare you, but only to hook it up for the next guy. They have windshield washers that are inoperable, instrument lights burned out, lenses and bulbs missing from the dash warning light system, safety equipment scattered loosely on the floor and brakes that are badly out of adjustment.

The average driver takes a quick look at his equipment, and if he sees nothing drastically wrong, like a missing wheel or a broken spring, he will jump into the truck and drive off.

One reason is that he's not paid any money for the time he spends pretrip inspecting his truck. By the way, no one at Yellow Freight has the job of inspecting trucks. Fuel men are supposed to check tires, oil, water, lights, and so forth. But they do it haphazardly, because Yellow has added to the workload of these men and cut back on help.

Another reason why most drivers don't check the trucks is that when a truck is written up, it is rarely fixed.

Systems vary throughout the trucking industry, but this is how it works at Yellow. After you write up a report, you drop it in a box

Digitized by Google

in the dispatch office. By the time the mechanic walks over from the garage to the dispatch office, which might be 3 hours, 1 hour, 2 hours, the truck is 100 miles down the highway, too far to be repaired.

A third reason why the trucks don't get repaired at Yellow is that the individual terminals are charged for repairs they do and they go on their profit-loss statements. So they try to send it on to the next terminal and let them handle the cost.

As a resident of Michigan, with 16 years' experience behind a Yellow Freight truck, I can say that the Michigan Public Service Commission has been of no help at all. We see them on the road watching for overloads and checking public service permits but they don't check for safety.

We never see them in the terminals. When we do call to report an unsafe truck, they refer you to DOT. The DOT office in Michigan or any other branch of the BMCS has never checked my truck.

In my opinion, conditions on the highway today, compared to 11 or 12 years ago, are appalling. I cannot personally understand why the driver has to be subjected to bouncing around inside of a tractor cab to the point of tears because of the pain.

The jostling in my humble opinion is the major cause of driver fatigue which causes accidents. This bill, S. 2970, is our first opportunity to overcome the dangers of physical abuse to our bodies. In my opinion, when S. 2970 is passed, and it saves one life, or one innocent motorist from dismemberment, then this committee can say "A job well done."

Thank you for giving me the opportunity to speak.

[The following information was subsequently received for the record:]

STATEMENT OF DONALD L. MCMORRIS ON BEHALF OF YELLOW FREIGHT SYSTEM, INC.

My name is Donald L. McMorris. I am President of Yellow Freight System, Inc., Overland Park, Kansas. I have spent over thirty years in the trucking industry, and I have been President of this Company for the last ten years.

I feel it is important for me to make this statement before your Committee because Armand A. Mayer, one of our drivers at Ann Arbor, Michigan, testified in a public hearing before this Committee on September 8, this year. In effect, he said Yellow does not have a maintenance program. He appeared as a witness for PROD. I do not believe it would serve any useful purpose for me to explore his attitude toward the Company or his job. He has been with us since 1963, and he has a good driving record. He indicates, in a complaint which he has filed with the National Labor Relations Board, that he serves as Secretary-Treasurer of the PROD group in Detroit.

This Company employs over 15,000 people, and about 4,200 of them are road drivers like Mr. Mayer. We think most of them are reasonably happy with the Company and with their jobs. We believe the majority of these drivers feel that management is interested in their health and safety. I feel reasonably comfortable in saying to this Committee that the statements made by Mr. Mayer are not true, and he does not speak for the vast majority of the employees of this Company.

This Company has two major types of equipment, city equipment (which is used for pickup and delivery work in terminal areas) and linehaul or road equipment. As of Friday, September 22, we had 2,763 tractors in service on the road (all linehaul power units are traded every three years and their average age in service is eighteen months or less) and 10,118 trailers.

We maintain 16 major linehaul shops for repair to road units throughout the country. These shops are open 24 hours a day, seven days a week. We do not

Digitized by Google

even shut them down for the holidays. On Friday, September 22, for example, there were 1,050 people employed full-time in our maintenance program. Handling the maintenance and road equipment were 614 mechanics and 184 servicemen. To perform the kind of maintenance we do on equipment costs this Company over 10 cents a mile. Through August 31, this year, we spent $14,363,500 on shop labor and an additional $14,767,000 on parts and outside maintenance on over-the-road equipment. In discussing these maintenance figures, I am not including the cost of tires or accident repairs.

Maintenance of linehaul equipment is not charged to the terminal as alleged by Mr. Mayer. He is wrong when he says we do not do any maintenance, and the terminals do not want the costs charged to them. Yellow Freight has gross revenues of $456,203,200 through August 31, this year. We spent about 6 percent of our total revenue on maintenance expenses.

There are 21 road drivers based at Ann Arbor where Mr. Mayer is employed. That terminal does not have a linehaul shop. However, if a truck arrives from the road with any kind of a defect, repair work is done by outside vendors. For example, in June we paid outside vendors at Ann Arbor $2,711.60; in July, $6,780.51, and in August, $3,732.22. Mr. Mayer is dispatched to either of two points, Effingham, Illinois, or Indianapolis, Indiana. Both Effingham and Indianapolis have major linehaul shops.

Before Mr. Mayer is dispatched from either Indianapolis or Effingham, the tractor and trailer are safety inspected at that linehaul shop. This is done pursuant to our Company rules as well as the regulations of the Department of Transportation. These 16 linehaul shops, such as Indianapolis and Effingham, are also responsible for the preventive maintenance program. It is an ongoing maintenance program and is computer-controlled. This preventive maintenance program is scheduled during specific intervals on each unit. This road and to keep it in a safe condition. We believe pre-planned maintenance is a sound investment.

Mr. Mayer told this Committee that Yellow road drivers, in filling out their trip reports, do not point out equipment problems because we do not repair them. That is not true. For example, Mr. Mayer, between June 5 and August 31, made 53 trips. He commented three times on the equipment, once to describe a truck as a "roughriding bastard," and the second time a somewhat similar comment in similar language. Only on one report did he say anything that was of assistance to the shop, and that was when he reported that an air conditioning light did not come on and that there was no cold air in the truck.

Every time a driver fills out his trip report and notes a defect, that report is sent to the shop so that repairs can be made before it is dispatched. When that trip report arrives at the shop, a repair order is made up to see that the item is corrected. Most of the items, of course, are minor, such as a light or a problem with the air conditioning. About 30 percent of the repair orders at the shops originate with the drivers trip reports to assist us in early detection of equipment defects.

The two most frequent complaints on drivers' trip reports are low power and rough-riding. The linehaul tractors are governed to operate at a maximum speed of 57 miles per hour which permits normal operation at the 55-mile-per-hour speed limit and enough reserve power to move with the flow of traffic on normal uphill grades. These tractors are equipped with the best available air-ride seats. We continue to look for more driver comfort. Right now, for example, we have 25 experimental air-ride cabs in our fleet which provide an even better ride. In other words, we want to make the ride more comfortable because we know that a driver who operates safe, comfortable equipment generally has a good attitude. That means he will drive safer, and he will take better care of the equipment.

Mr. Mayer said (even though regulations of the Department of Transportation require it) that drivers do not bother to pre-inspect their equipment simply because thy are not paid for it. Pre-inspections takes only a few minutes. Most drivers do pre-inspect their equipment because they are safety-minded. Drivers are well paid. Mr. Mayer, for example, through August 8, this year, earned in wages $19,619.34 at Yellow Freight. Add to that about 30 percent for fringe benefits, and I think you would agree with me that it is a pretty good job.

This Company has a good maintenance program and excellent safety record. In 1976, for example, this Company was awarded the American Trucking Associations' President's Trophy for the best safety program in the industry. In 1977, we operated a little over 400,000,000 miles and had an accident frequency of 3.04

Digitized by Google

accidents per million miles. Keep in mind that we classify an accident as anything from a broken mirror to a serious vehicle accident. In fact, if a truck goes into the ditch and there is no damage to the unit and the driver is not injured, we still count it as an accident. Through the first six months of this year, we operated 219,000,000 miles. In order to further reduce the accident frequency, this Company employes 20 full-time safety supervisors who work with the drivers, principally on matters concerning safety.

I am sure that Mr. Mayer's testimony must have caused you to have questions about Yellow Freight's maintenance program. I recognize that this Committee has a heavy responsibility insofar as the public is concerned when it comes to safety, and that the press of business keeps you in Washington. I would be more than happy for any members of your Committee or staff to visit any of our linehaul shops so that you can see for yourself that Yellow Freight does a good job of maintaining its equipment and is continually working to improve that program. The trip would afford you an opportunity to talk face to face with our drivers, mechanics, safety personnel and supervisors.

I appreciate, on behalf of the management and employees, this opportunity to respond to Mr. Mayer's testimony.

The CHAIRMAN. Thank you.

Do you have another one or two you want to hear from?

Ms. GINSBURG. Yes.

Mr. WHARTON. Yes. My name is Bailey Wharton. I am from Roanoke, Va. I'm a member of Teamsters Local 171. I've been a truckdriver for 9 years, 7 of them with Jones Motor Co., one of the top 50 carriers in the United States.

But I'm not here to talk to you about statistics. I'm here to talk to you about the death of one single truckdriver. He was a coworker of mine, a very close friend, age 32, married, with 3 children, 2, 5, and 8 years of age.

He was building a home. He was one of the best men Jones had at their terminal. He was well liked by both management and employees. And was a man who just loved driving a truck. He was a Teamster member also, and a proud member and he might be here today, except for one thing. He was killed in an accident on the job, July 22, right in front of me on Interstate 85, outside of Charlotte, N.C.

I say he was killed in an accident, and I take issue you would call it that. The right front tire on his truck suddenly blew out. He jackknifed and he crashed.

As a matter of fact, he ran into the back of another tractor trailer. And I submit some pictures to you that will be able to clarify much more what I'm saying.

As you can see from those pictures, the man had no chance at all. You have pictures of the accident and the tire of the blowout.

The CHAIRMAN. You can go ahead.

Mr. WHARTON. In a sense, this was no accident at all. Because Jones Motor Co. knew this eventually had to happen sooner or later. The tire that blew out on Charlie Helms' truck was a Canadian-made "Super Tire." The type tire that the company had previously used on all its trailers, on the front or steering axis of his tractor, where there is much more stress on them, once they started using these tires on the front axles, about 5 or 6 months ago, drivers started having problems.

There were several less serious accidents, due to blowouts on these tires, before July 22, involving injuries to other motorists, other drivers, and property damage.

Digitized by Google

These led to a lot of drivers' complaints about the safety of these tires. To my knowledge, two of these tires blew out in the York terminal. You can see by exhibit 6, one of the drivers heard the York terminal manager. Those statements are notarized and signed by the drivers. But nothing was done, even though the driver was complaining.

The company ignored our complaints, refused to remove these bad tires, and on July 22, one more blowout on them took the life of my friend, Charlie Helms.

The same day that Helms and I had our accident, another driver went out on Interstate 88 in Ohio and went over a 400-foot embankment but he was able to walk away from it.

Only after Helms died did the company remove all these "Super Tires" from their tractors, as you can see from exhibits 5 and 6, when the guys brought the tires down from Central Springs, Pa.

I know that Jones knew these tires were bad before Charlie Helms was killed because I knew the drivers were complaining about them. And you have orders right there, exhibit 4, 7, and 8.

The CHAIRMAN. Would those tires have shown when you made a visual inspection? Could you have told that there was something wrong with those tires?

Mr. WHARTON. The only way you could tell is when—a knot came up on some of those tires the size of a football. That's when they blow out.

The CHAIRMAN. How do you suggest we get at that type of problem? The tire defect is not going to show up in an inspection. What is the solution?

Mr. WHARTON. When you have a series of over 50 drivers having blowouts and cars and trucks being wrecked, that's reason enough to do something. These are tires that come on the trailers. These aren't tires that come from the factory.

They take them off, put recap tires on the trailers, and put these cheap tires on the steering axles. Just as I said, they put cheap tires on the steering axles.

In the trucking industry when it comes right down to it, you have two choices: You either drive the truck or you go home on the bus. I've been with Jones Motor Co. for almost 7 years, and as of yet, haven't had a safety meeting. I haven't been to a safety meeting yet. They haven't even had one at our terminal in the 7 years that I've been there.

We employ at least 100 road drivers. I'm strongly in favor of this bill, S. 2970, because it would give drivers the legal right to refuse to take out a truck that's a threat to their safety and everyone else on the road.

It's too late to help my friend, Helms, now, but the passage of this bill would definitely keep other drivers, motorists, perhaps one of you or your families, from injury and death.

As you can see, the picture of the truck on the right, that could have been you or perhaps anyone else in this room that that truck hit when the tire blew out.

I urge the committee to recommend passage of this bill so drivers don't have to choose every day between their life and their job.

The CHAIRMAN. Thank you.

Digitized by Google

[The following information was subsequently received for the record:]

STATEMENT OF DONALD R. SHEEHY, PRESIDENT, JONES MOTOR, SPRING CITY, PA.

AND NOW comes Jones Motor, Division of Alleghany Corporation, by and through its President, Donald R. Sheehy, who respectfully requests that the information contained herein be included in the record of the above proceedings.

By way of background, on September 8, 1978 one Baily Wharton presented testimony to the Committee wherein, among other things, he voiced his support of S. 2970. Throughout his testimony, however, Mr. Wharton made statements which, if accepted as fact by the Committee, would give a completely distorted view of the safety record achieved by Jones Motor throughout its years of service as a motor common carrier and our ongoing efforts to make safety an item of top priority throughout the company.

PART I

Mr. Wharton begins his testimony by relating to the Committee an incident which occurred on July 22, 1978 on Interstate 85 near Charlotte, North Carolina. As a result of that accident Charles Helms, another Jones road driver, lost his life and, as Mr. Wharton pointed out through the various exhibits submitted to the Committee, there was considerable property damage to the equipment involved. What Mr. Wharton failed to point out is the fact that he was discharged from Jones for his involvement in this accident and thus he appeared before you as a man who had just lost his job and had initiated proceedings against the company in an attempt to be reinstated.

would give little or no weight to Mr. Wharton's statments, I feel that facts pertains to his theory as to the cause of the tragic accident followed by his condemnation of the Jones Motor Safety Program. Although we hope that you would give little or no weight to Mr. Wharton's statements, I feel that facts pertaining to Jones have been placed before your honorable committee in a highly damaging manner and I ask your indulgence to respond to the specific comments of Mr. Wharton which in sum are scandalous, impertinent and misleading.

Mr. Wharton testified (see notes of testimony, Friday, 8 September 1978 pp. 101–105) that Charles Helms' death resulted from his front tire blowing out. This statement is completely unfounded and is an obvious attempt by Mr. Wharton to place the cause of this accident in an area other than where it should properly lie. The results of both our own on-the-scene investigation and the report prepared by the North Carolina State Police indicate that the two Jones vehicles came upon a slower moving tractor trailer unit at a speed which is classified in the Helms' police report as being excessive. Mr. Wharton, who was traveling behind the Helms' unit, was discharged from Jones Motor for recklessness resulting in a serious accident. Although physical evidence at the scene indicates that Mr. Helms attempted to stop his vehicle, he was unable to do so resulting in his crashing his tractor into the rear of the slower moving unit. At or about the same time the trailers of Helms and Wharton collided as Wharton unsuccessfully attempted to proceed by on the left. Although Mr. Wharton testified that the accident was caused by the blow out of Helms' steering axle tire, he stated to our investigator immediately after the accident that as Mr. Helms "overtook" the slower moving vehicle, he "did not see Mr. Helms' unit sway or do anything unusual". Our analysis of available skid marks supports Wharton's statement that Helms proceeded in a straight line into the forward vehicle and we submit that, had the steering tire "blown out", the Helms tractor would have gone completely out of control. Thus the physical evidence and Wharton's own statements indicate that a tire failure did not occur.

Not being satisfied with the conclusions reached after a careful analysis of the facts of the accident, we had the tire in question immediately sent to our General Offices in Pennsylvania where it was examined by our Vice President of Maintenance, a man with years of experience in the trucking industry, and Mr. George F. Zorn, the Director of Technical Services of our vendor, the Super Tire Engineering Company. A copy of Mr. Zorn's analysis is attached as Exhibit A and we would respectfully ask that it be made a part of this record.

Prior to our relating the conclusions reached by our Vice President and Mr. Zorn that there unequivocally was no rapid air loss (i.e. blow out) experienced by the Helms' tire, it seems appropriate at this time to dispel certain notions pro-

Digitized by Google

pounded by Mr. Wharton pertaining to the quality of tires utilized on Jones Motor equipment. Initially, I must state that Wharton's testimony relating to our switching trailer tires to our tractor steering axles is completely false and a clear example of Mr. Wharton's overzealous efforts to place Jones Motor before you in the worst possible light. Equally mis-stated and misleading are Wharton's comments relating to two blowouts at our York, Pennsylvania terminal and the fact that we have had a series of over fifty drivers having blow outs. Both statements, as well as others contained throughout his testimony are totally void of any basis in fact, yet this type of testimony has been offered to the Committee as it considers legislation which will have a very serious impact on the entire trucking industry. Thus it is incumbent upon us to place before you what really happened during the morning of July 22nd as well as place on the record the strides we have made in making safety an item of top priority at Jones Motor.

As to Mr. Zorn's findings, you will note he concludes that the Helms' tire air loss occurred subsequent to impact when the Helms vehicle contacted some foreign object causing a cut in the tire. Had the tire suffered a rapid air loss as Mr. Wharton would have you believe, the tire opening would have been severely frayed and the tire sidewalls would have been damaged. The opening here, however, is uniform and unfrayed with no sidewall damage whatsoever and is such that it could have been imposed only while the tire was in a fully inflated condition. Simply stated, the cut occurred as the Helms tractor crashed into and under the slower moving vehicle. We respectfully ask that you strongly consider the findings of Mr. Zorn, whose conclusions were identical to those of our Vice President of Maintenance. In addition, I have directed that this tire be sent to an independent testing laboratory for analysis. Unfortunately, time constraints prohibit us from being able to include this report with this response; however, immediately upon receipt of the laboratory's findings we will forward copies to the Committee and ask that the laboratory report be included in this record.

Jones Motor has had a long standing relationship with Super Tire Engineering Company and I would be remiss if I did not elaborate on that relationship to refute the allegations of Mr. Wharton wherein he states that we are using "cheap" tires. Super Tire Engineering Company designs and furnishes tread design and labeling to major tire manufacturers throughout the United States and Canada in accordance with all Federal regulations and industry standards. Super Tire provides the molds for the above with all structural design and production being supplied by the manufacturer. Currently, as well as at the time of the Helms' accident, both the Goodyear and Firestone Tire Companys, as well as their various divisions and subsidiaries, have working agreements with Super Tire to manufacture tires. The tires would be manufactured at various locations (i.e. Pennsylvania, Maryland, Ohio and Canada) depending upon production schedules; but regardless of where the tire was made, Super Tire advises that identical molds and quality control procedures were implemented. The premium tires at issue here were specifically ordered for use on steering axles. Where the tires were made has nothing to do with quality or price for the specifications are the same at all manufacturing locations.

The types of tires used by Jones Motor can currently be found on thousands of power units of other common carriers throughout various parts of the country. This, coupled with the integrity of the manufacturers involved, makes the statements of Mr. Wharton completely unfounded. In addition, Jones' maintenance procedures regarding tread wear and tire replacement are much more stringent than D.O.T. requirements which we feel is an indication of our willingness to provide the best equipment despite the increased cost.

Prior to taking issue with Mr. Wharton's statements relative to our safety program, one further example of Wharton's exaggerated, confused and mis-stated testimony may convince the Committee that whatever Wharton's motives, his testimony should be completely disregarded. Mr. Wharton states that on the same day as his accident another Jones driver went over a 400-foot embankment, the inference being that this was caused by a tire failure. Actually, the accident referenced by Wharton occurred on July 23rd on Interstate 81 in Pennsylvania when one of our drivers did go over a 25-foot embankment. The Pennsylvania State Police investigated the accident and stated in their report that there were no skid marks, no evidence of braking, that the tires were in good condition and that the driver ran off the roadway. An independent witness at the scene concurred in these findings. We submit that this one example typifies the quality of testimony received by this Committee on September 8th and ask that you evaluate his charges in light of the facts contained herein.

Digitized by Google

PART II

This portion of our response addresses itself to statements made by Mr. Wharton as set forth on page 104 of the notes of testimony. Within one short paragraph Wharton attempts to erase thirty years of safety at Jones Motor. So that the record is clear, I feel it incumbent upon me to advise the Committee of just some of the programs instituted and ongoing to insure the health, safety and welfare of our employees. Although I am very proud of our safety effort, I assure you that ours is not a unique situation and that all carriers affiliated with the American Trucking Associations continue in a concerted effort to maximize safety standards.

Mr. Wharton would have you believe that he has never had the benefit of any safety instruction during his seven years with Jones. So that the record is clear, enclosed you will find Exhibits B through J specifically dealing with recorded (and, in certain instances, receipted) contacts made by our Safety Department with Bailey Wharton.

[These exhibits are on file with the committee.]

Exhibit B: Dated 10–23–72. Receipt for Motor Carrier Safety Regulations.

Exhibit C: Dated 11–29–72. Receipt for Jones Motor Safety Regulations.

Exhibit D: Dated 6–13–73. Receipt for Jones Motor Hazardous Material Regulations.

Exhibit E: Dated 4–13–76. Receipt for Jones Motor Drivers' Manual (Revised).

Exhibit F: Dated 6–11–76. Test results pertaining to night vision and glare recovery administered to Mr. Wharton.

Exhibit G: Dated 1–21–77. Supervisors report by terminal manager indicating discussion with employee relative to accident.

Exhibit H: Dated 4–29–77. Incident Report—Discussion with Safety Supervisor Hancock relative to accident.

Exhibit I: Dated 6–9–77. Observation Report reiterating a one-on-one meeting with Safety Supervisor.

Exhibit J: Dated 6–29–77. Receipt for instruction on Hazardous Materials.

Although the documents above do not set forth in any detail the content of the instruction given, they do point out that Mr. Wharton has received, on a continuing basis, various types of instruction during his employment at Jones. Further, the above only relate to documented incidents which we were able to locate under considerable time pressures. These exhibits alone completely refute the allegations of Mr. Wharton; however, his accusations require much more than simply showing a former employee to be, once again, in error.

As to Mr. Wharton's allegation that there has been no safety instruction at our Roanoke terminal during the past seven years, be advised that I instructed our Safety Department to randomly select a group of Roanoke drivers and itemize the various forms of contact with our Safety Department that occurs from time to time. Attached is Exhibit K which sets forth the results of this sampling which, once again, shows Mr. Wharton to be less than accurate in his statements pertaining to Jones Motor.

As you know, the Department of Transportation and various other Federal and State agencies require strict compliance with all phases of motor carrier safety. In addition to following these standards, Jones has embarked on numerous programs to keep current in everyone's mind the primary place of importance that safety occupies at Jones. In addition to our Vice President of Safety and Line Haul Operations and our Director of Safety, we have a full complement of Safety Supervisors and staff personnel throughout our system. In addition, all line haul supervisors and terminal managers are charged with specific safety responsibilities. Thus, a full-fledged effort is ongoing to keep employees advised of better ways to insure their job welfare. During 1978 alone this effort will cost Jones Motor in excess of $400,000.00.

At Roanoke there is a full time safety supervisor who, as are all of our other supervisors, constantly required to attend workshops and seminars to advise others of recent safety developments. On an ongoing basis, impromptu safety sessions are conducted at the terminals and attempts are made to keep all employees updated on the safety aspects of their jobs. As an example, these impromptu meetings may concern changes in driving practices due to schools

Digitized by Google

reopening, winter driving practices or reviewing statistics with employees of high frequency accidents and ways to prevent them in the future.

In addition to all D.O.T. required statistics, we keep statistical analyses of all types of accidents, where they occurred, how they occurred and disseminate this information at the terminal level. Further, terminal statistics are maintained for accident and injury frequencies which are compared to standard norms. Those terminals below norms are clearly identified on a company-wide basis with special emphasis being applied to our higher frequency locations. Each terminal experiencing a work related injury is assessed a specific charge against its profit and loss statement and. this year, a program was implemented whereby repeated preventable work injuries will result in disciplinary action against the employee up to and including discharge. How better to emphasize safety than to make an employee's job depend on it.

The following are other examples of existing safety programs at Jones Motor:

1. *Observation Reports.*—These reports are made by Safety Supervisors based on their personal observation of employees in and around the terminal as well as on the road. A report form is attached as Exhibit L and could result in action, either favorable or disciplinary, being taken against a driver.

2. *Road Patrol.*—Many of the observation reports are compiled as a result of our road patrols. These patrols are ongoing and utilize company owned radar equipment. Included are three documents labeled as Exhibit M selected at random, setting forth radar utilization along with a typical road patrol weekend schedule.

3. *Safety Awards.*—Currently Jones Motor has several award programs working to encourage safe driving. The programs are set forth in our drivers manual and reinforced from time to time by interoffice correspondence such as Exhibit N, dated March 14, 1974. In addition to our driver programs. during 1978 on a company basis, Jones has received six safety awards from such highly regarded organizations as the American Trucking Association and the Pennsylvania Motor Trucking Association. Additionally, our insurance carrier saw fit to award us second place in a national safety competition. Next year we expect to be first.

4. *Vehicle Inspections.*—In addition to all State and Federal requirements. Jones conducts ongoing inspections of all equipment. At each of our major line haul domiciles, safety lanes have been established in each shop where preventive maintenance is performed each time a unit arrives at those terminals. In addition to these Maintenance Department checks, last year our Safety Department conducted 1,833 vehicle inspections.

5. *Personal Injury Program.*—This program was instituted by our Safety Department to better educate employees in injury prevention. With the assistance of the ATA, a booklet and slide presentation has been prepared and is being shown throughout our system. A copy of a recent booklet distribution is attached as Exhibit O.

6. *Porto Clinic Reports and Testing.*—These tests pertain to vision testing of drivers as was done in the case of Mr. Wharton (see Exhibit F). After results are analyzed, the driver is advised of deficiencies and also how to cope with these problems.

7. *Driver Safety Manual.*—A copy is enclosed for your review.

8. *Driver Qualification.*—A copy of our qualifications for both Road and City Drivers is attached as Exhibit P. You will find our qualifications to be more stringent than the Federal Regulations require.

9. *Driver Safety Letters.*—Over the years on monthly or bi-monthly basis, we directly correspond with our drivers about safety. Attached as Exhibit Q are five typical examples of such correspondence.

10. *Terminal Audit Reports.*—This ten page Audit Report (Exhibit R) is completed at least once a year throughout our system by a safety supervisor. Even a cursory glance will show the minute detail covered by this inspection.

I appreciate that the Committee's time is valuable and rather than continue to list specific safety programs, I am enclosing the Jones Motor Fleet Safety Program Manual which sets forth in detail our numerous safety procedures.

After you have had a chance to review this response we sincerely hope you agree that accusations such as those contained in Mr. Wharton's testimony do not in any way reflect existing safety conditions in the motor carrier industry. Relative to pending legislation, we urge you to consider the within information as well as the safety record of Jones Motor of which I am justly proud.

Digitized by Google

JONES MOTOR,
Spring City, Pa., November 14, 1978.

Hon. HOWARD CANNON,
Chairman, U.S. Committee on Commerce, Science and Transportation,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: Donald R. Sheehy, President of Jones Motor, has asked me to forward to your attention a copy of the engineering analysis prepared by Smithers Scientific Services, Inc. pertaining to the tire at issue in the above referenced response to testimony.

If you recall, Mr. Sheehy had asked leave to submit this independent analysis to further rebut the testimony of Baily G. Wharton, a former Jones Motor employee.

We would ask that the report be made a part of the permanent record. Thank you for your cooperation.

Very truly yours,

JAMES J. KOEGEL, *Corporate Attorney.*

SMITHERS SCIENTIFIC SERVICES, INC.,
Akron, Ohio, October 5, 1978.

Re Your Tire Brand No: 18CL445. Smithers' File No: 61T/2598/108.

Mr. DAVID N. SKIPPER,
Vice President, Maintenance, Jones Motor Co.,
Spring City, Pa.

DEAR MR. SKIPPER: We have examined the 11–24.5 Super Traction Premium Highway Rib Truck tire, serial number JX4F MK2108, that was submitted to us.

This tire lost inflation pressure through an oblong hole approximately six inches long that was formed when an impacting object scooped out a twenty inch section of the tread and carcass in the shoulder area on the non-serial side of the tire. There are diagonal tears in the carcass at each of the oblong hole indicating that the tire was fully inflated when the injury took place.

We found no defects in material or workmanship in this tire.

To identify positions on the tire, it is considered like the face of a clock with the serial number at 12:00 o'clock. On the serial side the numbers run clockwise, while on the nonserial side they run counterclockwise. The ribs and grooves are numbered starting from the serial side.

During our examination, the following molded information was observed: 11–24.5, Super Traction Premium Highway Rib, made for Super Tire Engineering Company, Pennsauken, New Jersey, USA, DOT, JX4F MK2108, Wheel POS SDT, Made in Canada, 12 PR, Tubeless, Load Range F, Tread 8 Ply Nylon Cord, Max Load Single 5780 Lbs. @ 85 psi Cold, Sidewall 6 Ply Nylon, Max Load Dual 5070 Lbs. @ 75 psi Cold, Patented Underprobe, Tire Undertread Probe Patented in the following countries, USA 3739828, Canada 964972, Great Britain 1412351, Belgium 798221, Greece 49863, Spain 413109, Argentina 194054, Venezuela 30981, Australia 473671, L–4417–2, 2LCP851. The tire was branded 18CL 445 Jones.

The tread design consists of five ribs and four grooves. The remaining tread depth was measured in 32nds of an inch and is recorded below:

Position	No. 1	No. 2	No. 3	No. 4
12:00	17	16	16	17
3:00	17	16	16	17
6:00	17	16	16	17
9:00	17	16	16	17

The large cut is located in the shoulder area on the non-serial side of the tire angling through the tire from 1:30 to 3:00 o'clock, a distance of approximately twenty inches. It starts at the surface at 1:30 o'clock and angles deeper into the tire until it forms an oblong hole completely through the tire, approximately six inches long and one and three fourths of an inch wide at its widest point extending from 2:00 to 3:00 o'clock. There are angled tears on the inside of the tire at both ends of this oblong hole, showing that the tire was fully inflated when this injury occurred. Because of the size of the cut, it is obvious that a high energy blow was necessary to damage the tire in this manner. Because of the size of the oblong hole in the tire, the deflation of this tire was virtually instantaneous.

Digitized by Google

There is an area of the tire located in the number one and two rib's at 6:30 o'clock that has been burned for a distance of eighteen inches. There are numerous other abrasions and cuts on the tire and there is a small cut in the innerliner near the center of the tire at 11:00 o'clock. This cut appears to have been made from the inside of the tire and only penetrates the innerliner.

During our examination, the following photographs were taken.

Photo A: Overall view of the tire serial side.

Photo B: Overall view of the tire non-serial side.

Photo C: View of the large cut located on the non-serial side at 3:00 o'clock.

Photo D: Closer view of the same cut.

Photo E: View of the cut from inside the tire. Note the tears at both ends indicating the tire was fully pressurized when injured.

Messrs. R. M. Hill, R. G. Dunlop and H. K. Hochschwender participated in this examination and concur with the results stated herein.

If you have any questions regarding this examination, we will be happy to discuss them with you. In any future communications, please refer to Smithers' file no: 61T/2598/108.

Please give us a disposition for this tire. If we have not heard from you, we will return this tire to you in two months at your expense.

Very truly yours,

CHARLES G. GOLD, *Analytical Engineer.*

Mr. DOYLE. My name is Robert Doyle. I'm a resident of Martinsburg, W. Va. I was until last fall a driver for Ryder Truck Lines out of Hagerstown, Md., where I was a member of Teamsters Local 992.

I'm here today to support Senator Percy's truck safety bill, because I believe it is much needed to upgrade the number and quality of safety inspections conducted by the DOT's Bureau of Motor Carrier Safety.

Right now in the industry, some carriers are trying to abide by the BMCS regulations, but others are profiteering by ignoring or circumventing these regulations. I've driven for both sorts of companies and Ryder was definitely of the second type.

As a Ryder driver, I've been trying to get the law enforced against my employer for a variety of flagrant safety violations. A lot of drivers are afraid to do this for fear of losing their jobs. But I tried, and I'm sorry to say I did not get the help I should have from the BMCS, which currently lacks both the inspectors and the enforcing power it needs to do the job.

To give you but one example, I asked for an inspection of Ryder's Hagerstown terminal in May of 1977 by letter to the BMCS Baltimore office. I told them when and how they could make an inspection in such a way as to catch the company in the act of sending units out on the road with many serious defects.

The two inspections the BMCS made between May when I wrote that letter and September of last year produced little in the way of results. However, on at least one occasion when inspectors visited our terminal, the company clearly had advance notice that they were coming. Because our dispatchers made a point of telling us to have our drivers' logbooks up to date.

Later, I learned from a source within the company that management had obtained a copy of the letter I wrote to the Government asking for an inspection. When we attempted to find out the official results of these inspection efforts, the BMCS would tell me nothing. And our only source of information was the company which claimed that only nitpicking violations had been found.

Digitized by Google

My point is this, Senator: If drivers are to be expected to cooperate with Federal truck-safety-enforcement efforts, they need to know for sure that the complaints will be held confidential, that they will be protected from reprisal, that inspectors will make prompt and thorough investigations of their complaints, and that they will be able to get full information from the Government about the results of these investigations, just as other workers have a right to do under OSHA.

We need more inspectors. We need more spot check inspections, as the Percy bill would provide, but most of all, we need to utilize better the people in the best position to enforce truck safety. That is, the drivers themselves.

Thank you, Senator.

[The following information was subsequently received for the record:]

RYDER TRUCK LINES, INC.,
Jacksonville, Fla., September 19, 1978.

Hon. HOWARD CANNON,
Chairman, Committee on Commerce, Science, and Transportation, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: On Friday, September 8, 1978, a Mr. Robert Doyle appeared and testified before the Committee on Commerce, Science, and Transportation, in hearings held on S. 2970, the Truck Safety Act of 1978. I respectfully resquest that this letter, intended to correct information and erroneous impressions, be made a part of the record.

In Mr. Doyle's introductory comments he points out (Line 15 ff., Page 105), that he no longer is an employee of Ryder Truck Lines. His testimony, however, is in the present tense and would appear that he is presenting himself as a spokesman for other Ryder employees. In a period of ten years, Mr. Doyle worked for six different employers, including a period of approximately two and one-half years when he was self-employed. During the two years and four months that he was employed by Ryder Truck Lines, we have no record or communication from Mr. Doyle bringing any notice of safety violations to our attention.

His comments fail to disclose that at the end of each trip our drivers complete a Vehicle Condition Report. The information on this report, and other items on our equipment, are checked in our safety lane prior to subsequent dispatch. This practice, and the related costs of servicing and checking out equipment which exceeds $1,500,000 in base wages per year, contradicts Mr. Doyle's characterization that our company ignores, or profits by circumventing, such regulations. To the contrary. Safe, road-worthy equipment is an economic plus. Our road Safety Supervisors, Shop Supervisors, and our company have benefitted from participating in training sessions aimed at being more effective in making inspections, with the assistance of experts from the Bureau of Motor Carrier Safety. We reject the insinuations of Mr. Doyle.

Mr. Doyle's testimony did not reflect credit to Ryder's management or concern for the safety of its equipment, personnel, and cargo. That portion of his testimony that reflects Mr. Doyle's feelings towards Ryder are not subject to refutation. Inasmuch as his testimony was supported by one example (Line 9, Page 106), permit us to set the record straight on the one specific instance that Mr. Doyle presented the Committee. Perhaps the facts on this will put the balance of his testimony in a more appropriate climate.

Ryder Truck Lines was inspected by the Bureau of Motor Carrier Safety at our Hagerstown terminal in 1977. We were also inspected at other terminals during the same months of the same year. Ryder received no advance notice of any of these inspections at any of the locations involved. We were, and are still, of the opinion that among the duties of the Bureau of Motor Carrier Safety are unannounced inspections of various truck lines and their equipment. Nothing had been said to us at that time, nor to this time, that these inspections were the result of a complaint against us by a Mr. Doyle. I am sure that the presence of BMCS inspectors at any of our facilities serves as a reminder to all of our personnel in the Transportation Department to renew their supervision and instruction to our drivers regarding the proper completion of their logs. Mr. Doyle

Digitized by Google

erred when he stated (Line 17 ff., Page 106), that such instructions were the results of advance notice of an inspection.

Mr. Doyle continued his testimony (Line 22 ff., Page 106), that management had obtained a copy of the letter he wrote to the government requesting an inspection. He learned this from a "source" within the company. The existence of that letter, if there was one, was not known to any responsible member of management at that time or at anytime since. We have never seen such a letter, nor do we know anyone that has seen such a letter, nor do we know of its existence.

I cannot comment on Mr. Doyle's remarks regarding inability to get official results of inspection efforts, as I presume that this is public information and can be obtained by him in an orderly way available to any citizen. He states (Line 1 ff., Page 107) that his only source of information was the "company", who told him that only nitpicking violations had been found by the BMCS. That is not true. I know no member of Ryder management that has characterized any violation discerned by the Bureau of Motor Carrier Safety inspectors at any location as nitpicking. We accept the violations reported to us for what they are, a defect that is to be fixed. Further, it has not been our experience that the BMCS inspectors are engaged in nitpicking activities.

I realize, with some frustration, it may not always be possible for the Committee to gain specific testimony or clarify vague charges from those who appear before it. In this instance, I hope that having dealt with the facts, that the testimony is placed in a different perspective. In short, the specific items that Mr. Doyle brought out in his testimony are refuted without reservation or equivocation.

Thank you.

Sincerely,

KINZEY REEVES,
Executive Vice President.

The CHAIRMAN. Several industries, particularly carriers of food and other perishables, have testified that their historical exemptions from regulation should be continued.

Do any of you drivers drive for any of the exempt companies?

Mr. BERRYHILL. My name is Bill Berryhill. No; I do not drive for an exempt company, but I was an owner-operator at one time, and I did operate independent for a short time. I don't feel that anybody in the trucking industry should be exempt when it comes to highway safety.

As an independent owner-operator, I myself was guilty of violating laws.

The CHAIRMAN. Was that on hours of service?

Mr. BERRYHILL. Hours of service, truck safety, the entire works, in order to earn a living as an independent trucker.

I'll explain my driving history and then you can better understand my position here.

I spent some 14 years within the maritime industry, which has a lot of good safety regulations, and so forth, which I'm sure you're familiar with. I was used to having a safe workplace and so forth.

I went to work for a company in Norfolk, Va., some 14 years ago, a little more than 14 years ago. I had some trucking experience before that. It was a tank company. I worked with the company several years and then I bought my own truck. I went to work for a freight company hauling a reefer as an owner-operator for that company. I found that I couldn't maintain my equipment and make payments. If I made the payments, I couldn't pay for the proper equipment to keep this truck up. So I ended up going from the reefer business into the tank haul. In tank haul, I ran into many, many more problems, mainly

Digitized by Google

from the hazardous materials, which ate away my truck. The revenues I was being paid were nowhere near enough for me to keep this truck in proper condition to run the highways.

Finally, I filed for bankruptcy, and went out of business. But during those years in tank haul, I ran across many, many things concerning the transport of hazardous materials that the public should know about, and that I feel this committee should know about.

On one occasion, I put a load to a little town up in Maryland called Havre de Grace. The load was sulfuric acid, at 90 percent strength.

On unloading this truck, I had a dome lid blow from the top due to faulty workmanship on the part of the company in maintaining that equipment. I was burned and hospitalized.

The CHAIRMAN. When was that?

Mr. BERRYHILL. That was in, I would say, 1964–65. I was burned by the sulfuric acid. It was reported to the Bureau of Motor Carrier Safety by myself, but they were not really interested in what a driver had to say.

The company, after I was hospitalized and released to my home, never once called to find out how Bill Berryhill was getting along. They called because they wanted me to sign some papers. On that occasion, after almost 3 weeks, my wife told them I was dead, because that was the kind of answer they deserved, for showing no concern.

I pulled these tank trucks on the highway with the frames literally eaten away with sulfuric acid. I have pulled many different types of chemicals, not just sulfuric acid. The frames were eaten away to where they were thin as matchboxes, matchpads.

I had an axle come out from under one on Interstate 81, pulling a load of acid.

The CHAIRMAN. When was that?

Mr. BERRYHILL. This was in 1965.

The CHAIRMAN. We're more interested——

Mr. BERRYHILL. We'll get more current.

The CHAIRMAN. We're interested in the problems today rather than back in the early 1960's.

Mr. BERRYHILL. But the same laws that apply to these trucks are still on the books insofar as drivers are held responsible but are not protected against reprisals, and cannot refuse to take an unsafe truck out. Practically every State does have a law on the books. I found this out after I almost starved to death on workmen's compensation after being burned. If you have a box here, and it's marked hazardous or dangerous, such as a tank truck with acid or a freight box with dynamite on it, you, as a driver—regardless of how unsafe that truck might be—if you get in that truck and move it down the highway, you have assumed the responsibility. Therefore, you not only cannot sue your employer for any damages that might have been incurred to your health or anyone else's but you're subject to arrest. The company doesn't come down and go to jail; Bill Berryhill goes to jail.

If it's a good company, they'll come down and defend him and get me out because they don't want their name smeared all over the country.

The problems are the same throughout the industry. Later on I went into freight haul. In freight haul, I thought I was upgrading

Digitized by Google

my job by going to work for a big company. I thought I would have better working conditions. Instead, it got worse.

I went to Hall's Motor Transit. I worked out of the terminal in Hagerstown, Md. I found conditions there intolerable and I started to do something about these conditions. I was elected the shop steward. I got very poor representation from the union, almost no representation, until I produced a large group of written grievances. Then I got a meeting between the company, the union, and myself to negotiate these grievances. As a result, I was able to change some of the work rules affecting safety. But as a result the union became bitter with me, and so did the company. For the last few years, I've lived with reprisals, not only from the company, but from the union as well.

A few days ago I held a meeting in Martinsburg, W. Va. I invited truckers from a four-State area. The newspapers carried my meeting and I had a very good turnout at this meeting.

We discussed this highway safety bill. I found no one at that meeting, no one that disagreed with what is in this package. And each and every one of those people were truckdrivers. And I'm here representing them and many, many others drivers on the east coast.

[The following information was subsequently received for the record:]

MOTOR TRANSIT CO.,
Mechanicsburg, Pa., September 27, 1978.

Senator HOWARD CANNON,
Chairman, Committee on Commerce Science and Transportation,
Washington, D.C.

DEAR SENATOR: During a recent hearing on the Truck Safety Act of 1979, one, William Berryhill appeared as a representative driver for PROD. In his testimony pages 111 and 112 he made some vague allegations concerning Hall's Motor Transit.

Mr. Berryhill currently not working as a driver, seems to have become a professional witness against the trucking industry. Earlier this year he appeared before the Senate Constitutional and Public Law Committee for the State of Maryland with similar wild, unfounded charges and allegations regarding our company.

I am enclosing a copy of my letter of February 24, 1978 to Senator Edward Conroy, Chairman of that committee refuting the claims of Mr. Berryhill with actual facts and figures.

Hall's Motor Transit is a certificated common carrier, we have more than 2,500 employees, 375 of whom are over-the-road drivers. We are deeply committed to compliance with all laws, rules and regulations involved with the operation of our company, and are most deeply concerned with safety in all its aspects. I can assure you that we will continue in the future our full commitment to high standards of safety and service to the public.

Very truly yours,

GERALD N. HALL, *President.*

Enclosure.

MOTOR TRANSIT CO.,
Mechanicsburg, Pa., February 24, 1978.

Senator EDWARD CONROY,
Chairman, Constitutional and Public Law Committee,
Annapolis, Md.

DEAR SENATOR: I am writing to you in reference to testimony that was presented before your Committee on SD583 by Mr. Berryhill, a former employee of Hall's Motor Transit Company.

It is our understanding Mr. Berryhill testified that Hall's equipment is poorly maintained, interior noise levels are bad, (no insulation), steering is difficult and violations of weight restriction.

In regards to maintenance, Hall's employs 152 qualified mechanics under contract with the teamster's union. Our facilities have been used by Pennsylvania

Digitized by Google

It is in the trucking business." This comment may help to explain why so many trucks on our highways today are mechanically hazardous. Indeed, in another recently published report, the National Transportation Safety Board drew from its years of experience investigating catastrophic truck accidents and flatly stated: ". . . it appears that industry cannot be relied upon to implement the periodic inspection and routine maintenance necessary to detect and correct maladjusted brakes . . .".

We don't know why this is so. But we do know it is so. Most of the major "for-hire" truck freight companies operate only a handful of repair facilities, employ the minimum number of mechanics and repair only those vehicles which can't and don't roll. Shop foremen in some companies get a year-end bonus if they use fewer parts than originally budgeted. And when drivers do jot down complaints about mechanical defects on DOT-mandated vehicle condition reports, repairs are often recorded as having been made on the form by the shop foreman—but never, in fact, executed. Such "pencil repairs" are a universal phenomenon in the industry. After all, a tractor sitting in the shop is not earning its keep. "Keep 'em rolling" is the creed of the trucking industry, just as "Think" is for IBM. So long as the trucks are rolling, there is little or no maintenance, regardless of need or safety.

One major reason why companies do so little to keep their equipment in safe mechanical condition may be that there's almost no chance they'll ever get caught and, if they are caught, there's almost no chance they'll be punished. And if by chance a fine should be assessed, it can easily be paid out of the much larger profits derived from the unlawful conduct. A large segment of the industry believes that "it pays to cheat." And, unless their hazardous vehicles happen to kill someone whose estate can win a large judgment against them (or their insurance companies), they're absolutely right. It does pay in terms of corporate profits. But the public and the drivers pick up the tab; they pay with their lives and well-being. That price is socially unacceptable and it's time Congress put a stop to it.

Now, why is it that truck companies have nothing to fear from law enforcement authorities? Indeed, who are the authorities?

The Federal government began to regulate the trucking industry back during the Great Depression when it enacted the Motor Carrier Act and gave the Interstate Commerce Commission responsibility for promoting commercial motor vehicle safety as well as an economically sound industry.

Specifically, the Congress merely authorized the ICC to issue rules and regulations, should it choose to do so, with respect to "qualifications and maximum hours of service of employees, and safety of operation and equipment." 49 U.S.C. § 304(a). The statute provided almost no legislative criteria.

The ICC's regulatory authority was transferred to the newly-created Department of Transportation in 1967, but it has never been clarified or amended. In brevity, if not ambiguity, it surpasses even the Sherman and Clayton Antitrust Acts. Perhaps as a result, we have on the books today some equally brief and equally ambiguous Federal Motor Carrier Safety Regulations (FMCSR) (49 C.F.R. Part 390 et seq.) which, as a result, are largely unenforceable.

To cite just one example, yesterday this Committee heard testimony about the dangers of forward mounted fifth wheels which cause excessive weight to be shifted to the front steering axle, and which also causes steering and handling difficulties. The pertinent regulation provides only that the fifth wheel shall be so located that it will "properly distribute the gross weight of both the towed and towing vehicles. . . [and] will not unduly interfere with thhe steering, braking and other maneuvering of the towing vehicle. . ." 49 C.F.R. § 393.70(b)(3). What is the meaning of "properly"? What is the meaning of "unduly"? Since the government has never published any interpretations, guides or criteria, the regulation remains virtually a dead letter.

Bad as these regulations may be, it doesn't matter much because the DOT has almost no enforcement tools. While the Congress gave almost every other regulatory agency civil forfeiture authority to enforce their regulations, it neglected to give such authority to the Department of Transportation for the enforcement of the truck safety rules. Remember that the DOT is not engaged in some arcane and meddlesome regulatory process that our country might be just as well off without. The DOT is charged with responsibility for saving those thousands of lives lost as a result of avoidable truck accidents—charged with responsibility for stopping a trend that has made the trucking industry one of

Digitized by Google

the most hazardous occupations in the United States. If ever a regulatory agency needed and deserved enforcement authority, it is the DOT's Bureau of Motor Carrier Safety (BMCS).

The Administrative Conference of the United States, the Congress' own General Accounting Office and about everyone else who has studied the governmental process agrees that civil forfeiture is absolutely essential to any effective enforcement program. Nearly every law enacted by the Congress over the last couple of decades authorizes such penalities. The Coal Mine Health and Safety Act, the Occupational Safety and Health Act, and laws promoting public safety including those dealing with hazardous materials, toxic substances, air and water pollution, and strip mining—all rely on civil penalties for their enforcement.

Unbelievably, for all practical purposes, the DOT lacks such authority. Now I ask you. If you had to choose between the effective enforcement of rules which safeguarded the working conditions in a soda bottling plant, and rules which required those 80,000 lb. tractor semi-trailer combinations to be free of hazardous mechanical defects, which would you pick? If the automatic bottle washer creates a hazard, someone might get hurt. But if a heavy-duty truck can't be stopped because it has no brakes, someone will surely get killed—and there's a good chance that persons outside the truck will be among the dead.

I should make clear that the DOT's Bureau of Motor Carrier Safety does have authority under the 1935 Motor Carrier Act to assess civil penalties—but only for recordkeeping violations. In other words, the carrier that fails to file an accident report may be fined by the DOT.

But for all other kinds of violations of the DOT truck safety regulations, the DOT must mount a criminal prosecution of the violator—on the context of the trucking industry, an irrational and archaic enforcement procedure. To prevail, the DOT must be able to prove "beyond a reasonable doubt" that some dispatcher, mechanic or driver "knowingly and willfully" violated one of its safety regulations. And, not incidentally, these cases must be brought in federal district courts by the Justice Department. You can be sure that neither the United States Attorneys, nor the United States District Judges are eager to get involved in what they both disparagingly refer to as "traffic court" cases.

The result is that the DOT rarely attempts to prosecute even where it has detected violations. Before the agency could take a case to court, it would have to perform an exhaustive investigation and somehow collect evidence about the state of mind of the "accused" to prove that he actually knew about the violation yet proceeded to engage in it. With only 134 investigators for all of the 50 states, the DOT simply does not consider it cost effective to undertake such demanding investigations and neglect the tens of thousands of dangerous rigs rolling down the highways. Instead, the agency has abandoned the posture of a law enforcement agency, and presented itself as a friendly, industry counselor trying simply to inform the industry by warm and friendly speeches on the convention circuit that there are some safety regulations on the books.

This simply is not enough.

According to the DOT's own random, roadside inspections, nearly 40 percent of all trucks are in "imminently hazardous" condition. On any given day on our nation's highways there are some 200,000 trucks. Yet during 1977, for example, the DOT referred only 166 cases to the Justice Department for prosecution; Justice declined to handle 24 cases, successfully prosecuted 100 and lost 3.

You will be interested to know that for those found guilty the courts routinely impose the minimum fine of $100 per count. Clearly, it pays to go ahead and violate the Federal Motor Carrier Safety Regulations. It is also clear that as an educator seeking to induce voluntary compliance, the DOT is no box office success.

There are one or two other ways by which the government could try to ensure compliance with its safety regulations which I should mention.

They've been used only rarely and with a singular lack of success.

First, the DOT may ask the ICC to withhold, modify or revoke a carrier's operating authority. The problem here is that the ICC considers itself out of the safety business; in the eleven years since its safety authority has been transferred to the DOT, the ICC has responded only two or three times. As a result, the DOT has virtually abandoned this enforcement route.

The second procedure the DOT could invoke would be an investigatory hearing. However, the hearing examiner could not assess fines even if he found violations

Digitized by Google

of the safety regulations; he could only recommend certain affirmative action whereby the carrier would essentially agree to improve its record of compliance.

As a result, the BMCS has, itself, announced that "Formal enforcement proceedings are a last resort.... They are weapons reserved for use against flagrant violators of the system.... The mainstay of our enforcement is education, technical assistance, publicity, and appeals to the self-interest of carriers."

The problem is that this is not working and we have a growing crisis on our hands.

Before leaving the subject of enforcement procedures, I should explain that sometimes the several states also become involved. In fact, the BMCS must rely upon State law enforcement authorities in conducting roadside inspections. The reason is that the Federal government's current jurisdiction extends only to vehicles which are rolling and have, or will, actually cross state boundaries. This early definition of "interstate commerce" is as outmoded as the criminal enforcement procedure. And because the DOT investigators lack the authority to stop vehicles, they must rely upon state police forces to open scales near state boundaries and require all vehicles to stop to be weighed and then inspected.

Some states do more. Indeed, a number of them have adopted Federal Motor Carrier Safety Regulations, lock, stock and barrel. However, enforcement authority is fragmented among a bewildering variety of agencies, including public utility commissions, transportation departments, highway departments, and state, county and municipal police. Although we have no data reflecting the State resources devoted to enforcement of truck safety, we do know that whatever they may be, they are not achieving results. The average highway patrolman will certainly stop a truck if it has no headlights in the dead of night or if it is flying along at 85 mph. But when it comes to inspection or a mechanical problem with the truck, he has no more idea whether it is a violation of law than anyone else.

We do know something, however, about state programs to enforce truck weight limits—programs which are generally given much greater priority than truck safety programs. In March of this year, the Secretary of Transportation informed 11 states that Highway Trust Funds would be cut off if they didn't do substantially more to enforce weight limits. 14 additional states were issued warnings by DOT. Although a handful of states have respectable programs for enforcing both truck weight limits and truck safety regulations, on the whole, state enforcement programs are even weaker than the federal program.

Incidentally, Mr. Chairman, I offer for the record two series of newspaper articles which discuss the truck safety programs of the States of Illinois and Ohio. They are part of an Appendix of documents which I also offer for the record and which includes many of the reports to which we have made reference as well as a small selection of letters we have received from employees of trucking companies attesting to the existence of safety problems we have outlined in our testimony.

Leaving now the subject of government enforcement of truck safety regulations, I would like to focus upon what we consider to be the most egregious loophole in the existing motor carrier safety statutory scheme. Drivers and mechanics are subject to the Federal Motor Carrier Safety Regulations just as are their employing carriers.

However, drivers and mechanics are also subject to various forms of economic persuasion—or coercion—depending upon your choice of words, from their management. It is a fact that employees of large trucking companies are routinely the target of reprisals and recriminations whenever they seek to meet their own legal and moral responsibility to comply with the safety regulations.

And once a law abiding employee has been fired, he is without legal recourse. The current law does not forbid such coercive efforts by employers to undermine the truck safety laws. As a result, any savvy driver will tell you that the unwritten law in his industry is you have to go along to get along. Once again, it pays to cheat on public safety.

Yet drivers are obviously the government's primary, natural ally in any effort to detect, investigation and enforce the truck safety regulations. They want desperately to help but they are unprotected and afraid of the consequences. Suppose you are a company driver. You are instructed to complete a trip which will force you to exceed the limit on driving time—already a tough 10 hours. Or you are ordered out when sick and should be in bed. Or you are assigned a mechanically hazardous rig to drive. Your real choice is to comply

Digitized by Google

with the safety regulations and be fired for insubordination, or do the job and take the risk of prosecution—an almost negligible risk—and having an accident. The consequences of the first choice are certain and immediate. The consequences of the second are uncertain and remote. There is no real choice. The certain loss of livelihood is too great a penalty to pay for complying with an unenforced and currently unenforceable law.

Present day legislation would never sanction such conduct. The driver or mechanic could be the eyes and ears of the government. Better still, they could have a powerful influence upon their employers and induce compliance with truck safety rules in the first instance by making their complaints directly to management, not law enforcement agencies. And management would have to listen and take measures to remedy violations. Indeed, if this were the case, there would be no need for a sizeable police force (federal and or state) to run around slapping fines on those who violate the truck safety regulations. The point is that trucking company employees hold the key to truck safety—but Congress has not yet given them the protection they need to use it.

The Occupational Safety and Health Act is only one example (although a particularly relevant one) where Congress has given employees the protection they need to help in law enforcement and compliance. As I've already explained, professional drivers of interstate commercial vehicles are not eligible for the safeguards of OSHA, including the prohibition of management reprisals.

Mr. Chairman, we have hundreds, if not thousands, of letters from drivers, disciplinary letters from supervisors, grievances and the like in our files. In our Appendix to this testimony we are submitting several merely as examples.

You may ask whether this practice is universal. Believe me, it most assuredly is.

You may also ask why union employees at least are not protected since collective bargaining agreements generally forbid unjust discipline.

To begin with, there are thousands of trucking companies and bus companies whose employees are not represented by unions. Of those who are represented, most are covered by Teamster contracts. Unfortunately, the Teamsters are no more familiar with the DOT's Motor Carrier Safety Regulations than most trucking companies—and they have shown little more interest in the health and safety of their members than the top brass of the companies. True, the Union has a safety department that was established a few years ago, but that department is active only here in Washington.

The reality is that those who handle members' grievances are largely ignorant of truck safety regulations and a good deal more concerned about financial welfare than physical well-being.

The Teamster bi-partite grievance committees, which might appear to hold some hope, are structurally unable to remedy contract violations and must necessarily compromise member grievances.

We could describe countless cases where drivers have been fired for collaborating or filing complaints with the DOT or for refusing to drive when ill or fatigued or when assigned a unit in hazardous mechanical condition. On occasion, the Teamsters Union will get the driver reinstated, almost invariably without backpay, only to turn around and warn him that if he does it again, he can forget his job.

Because of time limitations, I will cite just one specific example of the operation of a Teamster joint labor-management grievance committee. The committee in question was the National Joint Committee, the grievance panel of last resort under the National Master Freight Agreement. Teamster president Fitzsimmons and other top Union officials sat on this committee when it decided that Jim Banyard, a driver for McLean Trucking, has been properly fired when he refused to drive a rig that was seriously overloaded. The company admitted the fact that Banyard's truck was overloaded; it further admitted that it was company policy, on a national basis, to require drivers to pull overloaded rigs as a condition of employment. The Union's leadership evidently found no problem with this practice—and essentially repealed the contractual language Banyard had relied upon which forbade companies from requiring their employees to violate safety laws.

The long and short of it is that professional drivers, the government and the motoring public desperately need legal prohibitions against management reprisals directed at law abiding employees. That such statutory safeguards do not already exist is nothing less than a tragic oversight which should be remedied without further delay.

Digitized by Google

S. 2970

I would like now to comment on the key provisions of S. 2970.

The centerpiece of the bill is Section 12. It eliminates a serious loophole in existing law by prohibiting employer reprisals against employees who report violations of safety rules to the Department of Transportation, or who insist on critical repairs being made before they will take the truck onto the public highways. Section 12 also gives aggrieved employees the right to obtain necessary relief.

The second major provision of the bill is its provision for civil forfeiture together with an administrative and judicial review procedure to guarantee parties assessed civil penalties due process of law. These are contained in Sections 10 and 11.

These two provisions of the bill are absolutely essential if we are to begin to get a handle on the rapidly escalating truck safety crisis.

S. 2970 would remedy several other problems which have prevented effective enforcement of the truck safety regulations.

Section 3(3) re-defines "commerce" in the customary, fully constitutional manner. This would have two results:

First, all carriers, inter and intra-state, would be required to observe minimum federal truck safety standards, and employee safety and health. Current truck safety standards apply only to interstate carriers, except when trucks are carrying hazardous materials.

Second, this provision would eliminate a jurisdictional confusion which currently exists between the Occupational Safety and Health Administration (OSHA) and the Bureau of Motor Carrier Safety. While the BMCS has jurisdiction over interstate carriers, OSHA claims jurisdiction over all other carriers and their employees. All truck drivers and their employers would, under this bill, fall under the authority of the BMCS.

Permit me to discuss these two changes a moment longer.

The current distinction between interstate and intrastate trucks is frequently artificial. For instance, safety rules apply to a truck that has or is about to cross a state boundary on a given trip, but not to the same truck the next day if it should happen to be carrying goods which are in interstate commerce, but not cross a state line. If the vehicle is hazardous, it does not belong on the road either day.

This same truck, carrying interestate goods, is also likely in many cases to be travelling on interstate highways, or on other federally-aided highways within the state. And, the driver of the truck may well be a resident of another state.

I might also add that the BMCS currently uses civil penalties in its record-keeping requirements only in the event of violations by common and contract carriers. Private carriers are not subject to these penalties because of distinctions made for economic purposes in the 1935 Motor Carrier Act. But when it comes to safety, if not to entry, a truck is a truck, and the re-definition of "commerce" in the bill recognizes this.

Let me turn now to the OSHA–BMCS jurisdictional conflict and the effect of Section 3(3) on it. As we described above, a truck carrying interestate goods, and being driven by an out-of-state driver, may fall within the jurisdiction of the BMCS one day but not the next. The day the truck and driver are not not subject to enforcement by the BMCS of its rules, they must meet OSHA requirements, because under the OSH Act, all workers not protected by previously regulating agencies are subject to OSHA.

S. 2970 would end this overlapping jurisdiction. It would give the BMCS authority over all vehicles, their operation on the highways and their drivers. It would also delegate clear authority to the BMCS to ensure the health of drivers due to their exposure to health hazards while operating their vehicles (Sec. 7(b)).

OSHA would retain jurisdiction for assuring the health and safety of employees who work in the warehouses, on the docks and in the maintenance shops. Although the BMCS has much greater knowledge about motor vehicles, it has no knowledge of off-highway occupational health hazards. OSHA does, and, indeed, has promulgated rules which apply to the working conditions of these occupational groups.

Section 7 of the bill establishes the BMCS's regulatory authority. As we have said, Section 7(b) authorizes the agency to regulate the working conditions of employees. Public safety, not employee safety and health, was the goal of the

Digitized by Google

1935 MCA insofar as it covered truck safety. Today's truck driver suffers from the long term ill-effects of many occupational hazards, which may have only an indirect or no effect on his ability to drive safely. Kidney and spinal damage from certain suspension systems, lung damage and possibly cancer from diesel fumes are growing problems. Leg burns from hot doghouses are a problem which the BMCS for a long time refused to deal with since it ostensibly affected employee health, not public safety.

Section 7 also restates and clarifies the substance of the BMCS's current authority under the 1935 law. That authority was brief and vague, and was permissive rather than mandatory. It has resulted in brief and vague rules, and in long delays in taking action. To require steps and a handhold on truck cabs several feet off the ground has now taken over a full decade. The rule is still being debated although exhaustive data regarding costly slips and falls exists.

Section 7(e) requires that the BMCS familiarize affected persons under the bill with its rules. Currently, the BMCS distributes copies of its rules to carriers, but not to employees or employee representatives. An amendment to the bill should add that affected persons be familiarized with the BMCS's "procedures" as well as rules, so that citizens, drivers and carriers would know what the government expected of them, and where and how to contact BMCS inspectors.

Section 13 of S. 2970 creates a procedure for delegating authority to enforce truck safety regulations to the States and authorizes limited sums of money to come from the Highway Trust Fund for state enforcement activities.

Curently, many states are enforcing some federal safety rules without the help of federal funds. We think they should be given some help. The Highway Trust Fund is a highly appropriate source for that help, since it has built the network of highways on which the trucking industry is traveling and on which drivers and citizens are being killed in truck accidents.

Should the states be required to adopt federal rules, or should HTF monies be dispensed without requirements, on the assumption that the states will act of their own accord to set adequate safety levels? Because of the way the current law is written, even trucks belonging to interstate carriers are sometimes used only for intrastate operations. Thus, the same truck will be subject to enforcement by different entities on different days. The same holds true for the driver. I don't know how the truckers present would answer this question. But I find it hard to believe that any company that operates nationwide, or even in a single region, would prefer to adjust to 50 or 10 different state laws rather than a single federal law. We do think there should be uniform federal standards.

In concluding, I would like to address a few of the argument we have heard in opposition to the truck safety bill.

In a sense, S. 2970 would deputize every truck driver to assist in the enforcement of safety regulations by prohibiting his employer from disciplining him both for complaining to, or assisting the authorities, and for refusing under certain narrow circumstances from engaging in conduct which would violate the regulations. We hear that the industry is most unhappy with Section 12, and I think it would be appropriate to address several of their arguments.

First, we have already demonstrated why Teamster grievance machinery is a wholly inadequate mechanism for remedying the problem of employer reprisals aimed at law abiding drivers. Moreover, the enforcement of absolutely vital public policy should never be delegated to private parties who may have incentives to undermine that policy.

Second, we are told that management would no longer be able to supervise its operations because drivers would be authorized to dictate policy by refusing to perform assignments based upon their construction of the truck safety regulations. This dire prediction is patently absurd. It is designed to scare legislators. In fact, truck company management could continue to threaten employees with reprisals and even fire whomever they please as they currently do. S. 2970, unhappily would not stop this. Management could still attempt to coerce its employees to violate the law.

But, we are told, S. 2970 would authorize an aggrieved employe to sue his company and the industry will be plagued with thousands of nuisance suits filed by disgruntled employees who have an axe to grind and are only claiming conduct violative of the truck safety regulations. This prediction is also absurd. Truck drivers do not have lawyers on retainer. A discharged driver can barely meet his mortgage payments, much less pay legal fees. Lawyers who are asked

Digitized by Google

to accept cases by drivers on a contingent fee basis are most assuredly going to dig into the facts very carefully to determine that they have a solid case before they agree to take it on. As a result, it is likely that only meritorious suits will be brought, as well they should.

When employers are found in a court of law to have deliberately punished an employee for promoting such a critical public policy as preventing the loss of life, that employer should be ordered to do more than simply offer to reinstate the employee and pay his back wages. In the first place, that relief would hardly compensate the employee for his broken marriage and lost home and other hardships he had to endure during the course of the legal proceedings. Moreover, it would hardly punish the employer for having engaged in such blatantly anti-social conduct. Hence, it is vital that exemplary damages also be awarded. This is precisely what S. 2970 would do, no more or less.

One final argument against the bill I have heard is that it would discriminate among different sectors of the motor carrier industry and it would be costly and inflationary—the catchword of our times. The only discrimination that would occur would be the singling out of those sectors of the trucking industry who violate the law. This is not, of course, a form of legally cognizable discrimination. The Percy bill would not cost the industry a single penny, much less have an inflationary impact, if the industry were complying with the truck safety rules. Those who complain about costs are those whose trucks you don't want to share the highways with.

The occupational death rate among truck drivers is over 6 times the national average and significantly higher than that of miners and construction workers—those traditionally thought to suffer from the highest occupational death rate. As you know, the Congress moved last year to transfer the mine safety function from the Department of Interior to the Department of Labor and provided miners with tough new protections when doing so. We are not at all convinced that the DOT's Bureau of Motor Carrier Safety should not also be transferred to the Department of Labor. We are convinced that professional drivers and the public desperately need, and surely deserve, tough new protections from some of the most callous conduct imaginable which has been responsible for the loss of many lives and the infliction of untold injuries. Certainly, professional truck drivers are not less deserving of protection than every other American worker. It is high time that the loophole that has left them without protection be filled.

S. 2970 is a moderate bill which would increase no burdens and impose no new hardships but which would rather begin to address the long overlooked problem of truck safety. We are concerned that it may not be nearly enough but we are convinced that it is a vitally important step in the right direction.

Thank you again for the opportunity to testify, I would be pleased to answer any questions you might have, either now or in the future.

STATEMENT OF PAUL GEORG

My name is Paul Georg. I have been employed by Spector Freight Systems, the eight largest trucking company in the country, for a period of 12 years as a road driver. During the entire time I was employed my driving record consisted of one accident. That accident occured on July 31, 1977, and was a direct result of my being forced by Spector Freight Systems to take a tractor-trailer combination unit, carrying 32,000 pounds, out onto the public highways despite my refusing to drive the truck because the braking system was inoperative.

I say I was forced to take the vehicle out in this condition and will elaborate briefly because I think it is essential that this committee be made aware of the tremendous latitude the trucking companies are given with respect to compromizing both the safety and health of the professional driver and the motoring public at large. That latitude is granted them, in part, by the unions failure to protect the job of the driver who is concerned with the enforcement of laws that are currently on the books and designed to eliminate abuses in this area. In balance let me just add, that the government regulatory agencies must share equally the guilt in the lack of enforcement and the protection of drivers against reprisals for their insistance on the company adhering to the law.

The professional driver is faced with two alternatives as a result. He or she either drives a defective, overweight, or inadequate vehicle, or refuses to do so at the risk of losing his job. Hardly an enviable position for anyone to be in, but vertheless a fact of life that exist in the trucking industry today.

Digitized by Google

In my particular case, I chose to drive the vehicle I was ordered to drive rather than place my livelihood in jeopardy. The brakes did fail me when I needed them, as I suspected they would. To avoid hitting a passenger car on the highway, I swerved sharply off the road.

Today marks my 13th month out of work because of this incident. All the muscles in my lower back were torn, as I was thrown all over the cab until it came to a full stop. I have yet to receive full compensation payments for my injuries and loss of work and I am not quite sure that my body will ever again be able to withstand the severe pounding a driver is exposed to on his regular 10 hour daily tour of duty. My family and I have, in fact, become victims as a result of the severe financial loses we have encountered.

The power to change and correct these injustices is currently in the hands of this committee. I feel confident that you will do everything within your power to protect the vulnerable and unsuspecting public from the barbaric sensitivity of the trucking companies whose only concern seems to be the profits they can make regardless of the cost in both lives and human suffering. Thank you.

STATEMENT OF GEORGE ZOJICEK

My name is George F. Zojicek, Jr. I reside at 4273 Shady Lane Way, Forest Park, Georgia 30050. I am employed by Roadway Express, 2701 Moreland Ave., Atlanta, Georgia 30315. I have been employed there since July 6, 1972.

My job description is "Service Man Class A." My duties include lubricating equipment, checking batteries, changing tires, pumping fuel, adjusting brakes, checking and repairing lights, and other general check-lane service.

Over the last few years, I have been constantly harassed by the company because of my involvement in many areas of safety-related items.

Within the last 18 months, our work policy or procedures have gone through some drastic changes.

There was a time when the people who worked on the service lane would find defects on a unit—the unit being the tractor and trailer. The unit would be written into the shop for defects to be repaired.

Under the present conditions, our road units very rarely go into the shop for repairs.

The drivers write up the book or M–11. The driver notes any safety defects on the tractor or trailer. This M–11 book will be signed off in most cases by the foreman as O.K. or O.K. to run.

These defects should be repaired by the mechanic; and where repairs are made, only the mechanic should sign the M–11 or driver's write-up, not the foreman.

For example, as our present system works, there are five service lanes at our shop. The unit comes through the lane to be fed and serviced before it goes on the road. The lane or service man will be told that he has only so much time to run the unit because either the driver of the unit is on the way in or the driver will be on the clock shortly, causing the company down time. If the lane or service man finds any safety defects, such as worn tires, worn brake linings, or leaking wheel seals, the foreman will tell the man to let these items go.

After telling the lane man to run the unit with the defects, the foreman or supervisor can, and does, inspect the unit on our outbound ready lane.

The ready lane is where the unit goes when it is supposed to be ready for the driver, and the lane man has written it ready. This unit can be reinspected, and the very man that was told to let these defects go could be issued a warning letter by the foreman or supervisor. If the lane man were to give the foreman or supervisor a hard time and request that a unit be shopped for safety defects, you could be given a reprimand or warning letter for failure to follow instructions. So you are put in a position where you are damned if you do and damned if you don't.

By allowing these safety defects to go through does two things. It allows the garage manager to keep maintenance costs down and give himself a bonus. It would also increase the profit-sharing check of the foreman or supervisor.

Enclosed, and marked as exhibits "A" through "F", are copies of safety defects or units found by me to include work order numbers, the defects I found, and the lane foreman's O.K. or O.K. to run these safety defects.

[These records are on file with the Commerce Committee. They show a wide range of defects including faulty brakes, oil leaks, and malfunctioning windshield wipers]

Digitized by Google

These defects are O.K.'d to run or O.K. period with the foreman's signature or initials.

This is a method I have chosen to use in order to keep from being reprimanded at a later date. I do find these safety defects, but the foreman will let them go anyway.

In closing, I respectfully request that in the best interest and benefit of the road driver, as well as the public at large, that a safety bill or act be passed.

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question 1. You refer to the Berwick, Pennsylvania spot-check in your testimony. Do you think that the 54 per cent figure for imminently hazardous vehicles is representative of the situation nationwide?

Answer. Yes. Since BMCS inspections cover interstate trucks, it is unlikely that the figures will vary significantly between states. Moreover, the budgetary policies of large carriers permit only slight variations in maintenance practices from terminal to terminal.

The level of trucks found to be imminently hazardous in the Berwick inspection is higher than in similar inspections over the past few years, which have ranged from 38 per cent in 1972, to 34 per cent in August 1977. But the recent, higher figure is comparable with the judgments of people in the industry. On August 14 an article on trucks in the Cincinnati Enquirer recited the following estimates:

"Larry Green, an Ohio State trooper at a truck weight station outside of Eaton: 'At least 55 per cent are running illegally.'

Del Gephart, a former owner of Workforce, Inc., a company that provides drivers for leased equipment: 'Half of the trucks going down the road are illegal.'

Dick Nickerson, Boston, Mass., and Emil Drlik, Toledo, tank-truck drivers: '80 per cent of the rigs on the road are not legal.'

Donald R. Chambers, district manager, McLean Trucking Company: 'Would you believe 101 per cent?'"

Even the BMCS's 34 per cent figure, which refers to nationwide inspections, is extremely high.

Question 2. Several witnesses testified about the inequality of enforcement efforts, stating that the larger carriers are singled out for stricter regulatory enforcement. Does your membership have a position on these assertions?

Answer. Yes. PROD's membership, who are drawn from the nation's largest carriers, feel that the government protects large carriers through leniency in enforcement efforts. Leniency is understood in two ways, immunity from inspections and from penalties.

A universal complaint among truck drivers is that large carrier trucks are waived through at BMCS roadside checks while owner-operators and smaller firms are stopped. Company drivers who have stopped and themselves requested an inspection have been refused. Many truck drivers, including PROD members, believe that political pull, payoffs or other corrupt practices are involved.

At the State level, drivers for interstate carriers say that state officials refer them to the U.S. Department of Transportation (BMCS) rather than citing them for an obvious violation, even in states which the BMCS records show have adopted federal safety rules. State officials who do inspect trucks are generally trained only to look for licence irregularities or overloads, and do not check equipment for safety violations. Highway patrolmen who are concerned about safety concentrate on speed, hours and weight violations, which leads them to focus on owner-operators rather than large carriers.

A second measure of immunity is what happens after the violator is found. Although inequities unfavorable to large carriers do exist, the bottom line is that none of the carrier groups is subject to significant enforcement efforts.

Since the BMCS is limited to criminal charges brought by the Department of Justice as a means of enforcing its rules, knowledge and intent must be shown in order to prove a violation of law. Whereas large carriers find it difficult to demonstrate ignorance, smaller firms do so successfully. With these, the BMCS limits its enforcement activity to sending them a copy of the rules. Larger carriers are, in this respect, more likely to be successfully prosecuted. But the likelihood is only relative. Criminal prosecutions in 1977 resulted in a total of

Digitized by Google

less than $200,000 in penalties. Nevertheless, a reasonable requirement of law would be that registrants of commercial motor vehicles declare knowledge of the federal rules upon registration.

A second inequity is that private carriers, who may have quite large operations, are exempt from the civil penalties that may be levied against common carriers for recordkeeping violations. S. 2970 would eliminate this unfair exemption.

It could be true that there is more awareness of the RMCS and its safety rules among drivers in large common carrier companies, and therefore more complaints from them, and more subsequent RMCS investigations. More effort should be made by the RMCS to inform drivers and employers of the rules and procedures for seeking their enforcement.

Question 3. Several industries, particularly carriers of food and other perishables, have testified that their historical exemptions from regulation should be continued. What is your position on these exemptions?

Answer. No carrier who uses the public roads—federal-aid or other—to transport goods or people should be permitted to ignore a minimum standard of public safety. It does not make sense from the point of view of safety that an 18 wheel truck traveling from Los Angeles to San Francisco would not have to have operative brakes, whereas an 18 wheel truck traveling from San Francisco to Reno would.

Furthermore, whether a driver is carrying garden hoses or peaches does not affect his need for sleep, properly inflated tires or for a truck cab free of toxic fumes, deafening noise and a spine crushing suspension system. Every employee has a right to a safe and healthy workplace, regardless of what business his employer is in. The public has a commensurate right to be assured that trucks sharing the road with them are safely operated.

Under current law, the Secretary of Transportation may create exemptions from safety standards for certain classes of vehicles, and the RMCS has done so—for all vehicles under 10,000 lbs., for apiarian industries, for light weight vehicle mail trucks, and others. (See 49 USC 391.2 for general exemptions and specific rules for others.) Nothing in S. 2970 would prohibit the Secretary from continuing these exemptions applicable to interstate traffic or adding new ones aimed at intrastate trucks.

We do not think that the current exemptions should be allowed, or that new ones should be added. However, if the policy of permitting the DOT this latitude is to be continued, criteria for granting exemptions should be established by Congress. These should require that those applying for exemptions demonstrate that they pose neither a public safety nor an occupational safety threat.

Question 4. Many witnesses at the September 8 hearing, the GAO, and others, have agreed that the DOT is inadequately staffed to inspect the number of vehicles on the road. (The ratio is one inspector to every 32,500 vehicles.) (A) How many persons do you estimate would be required to enforce the truck safety regulations on the books as of September 8, 1978? (B) How many persons do you estimate would be required to carry out adequate inspection and enforcement of the existing truck safety regulations, and implement the provisions of S. 2970?

Answer. Under current law, we would estimate that the number of inspectors should be increased tenfold, and this might not do the job.

It is difficult to say how many inspectors would be needed if S. 2970 were adopted. The bill is designed to be self-enforcing, in two respects. It includes a provision for civil penalties designed to "induce compliance", and strong protections for employees who report violations and refuse to drive dangerously defective equipment. In addition, the goal of the bill is to induce states to assume responsibility for the enforcement of uniform federal safety standards.

Even with these changes, we would recommend that the number of federal safety inspectors be doubled immediately. In addition the staff of the BMCS in Washington should be increased by 50 per cent.

Question 5. Do you feel that the provision for 80 per cent Federal funding programs (up to $2 million per State) will significantly improve State safety programs, if S. 2970 were enacted? Is that amount sufficient?

Answer. To begin with, we would suggest that the $100 million proposed in the bill be distributed according to an equitable formula developed by the Secretary. Preliminary grants to States may be necessary to develop the needed information on which to base safety program grants. The formula could result in certain states—those with more truck traffic—receiving more funds than others, and in some cases, more than $2 million.

35-692—78——10

Digitized by Google

Any funds granted to states for strengthening truck safety efforts would result in a higher level of safety on the highways. More information from the states, however, is necessary before the adequacy of the proposed funding can be determined.

In our view, $100 million is an absolute minimum. Under S. 2970, participation by the states in the federal program is voluntary; less than $100 million may not result in sufficiently high grants to convince states to participate.

Question 6. Why do you support the provision to vest the judicial authority in regulatory proceedings with the NTSB, as opposed to the DOT?

Answer. First, the NTSB would be more objective than the DOT, which would be a party to the proceedings. Objectivity is the essence of a judicial proceeding. The NTSB is expert as well as impartial, familiar in its role as accident investigator and agency monitor with trucking industry and BMS practices. Third, the NTSB has the virtue of being well known for sound and thorough decisions. Its credibility, expertise and impartiality would lend needed authority to decisions affecting public safety.

Question 7. If the federal forfeiture provision were enacted into law, how important do you feel granting independent litigating authority to the DOT is?

Answer. First, let me point out that independent litigating authority is limited under S. 2970 to civil proceedings. Criminal cases would still be handled by the Department of Justice.

Second, even in civil cases, S. 2970 stipulates that the litigation handled by the DOT would remain subject to "consultation with and the concurrence of" the Attorney General.

This limited independence would result in much speedier handling of cases, to the benefit of the public, industry and employees. FHWA lawyers have stated that cases which should take six months to complete are currently subject to delays of two years. The low priority of cases affecting truck and highway safety—Justice Department officials view them as "traffic cases"—also means that few are sent over to Justice and fewer still are prosecuted. The Department of Transportation has the expertise and interest to handle a reasonable number of cases expeditiously.

Question 8. In its testimony, the American Trucking Association suggested that the duty provisions in subsection 6(e) be combined with that in subsection 6(b), so as to require the same standards of compliance for both employers and employees. Would you comment on this proposal?

Answer. PROD is opposed to any change in Section 6 of S. 2970, the General Duty clause.

In 1971, Congress recognized in law every American worker's right to a safe and healthy workplace, and every employer's obligation to provide such a workplace. Although these rights and obligations theoretically exist in the trucking industry, they have been ignored by employers and government alike.

Some argue that the responsibility for trucking industry regulation should be vested in the Department of Labor instead of the Department of Transportation. In 1977, Congress transferred authority for mining industry safety regulation from the Interior Department to the Labor Department.

We do not support such a move at the present time. The DOT has been operating with severely limited legal tools and resources. If S. 2970 is adopted, giving the DOT adequate legal tools, the DOT should show both the will and the ability to ensure a reduction in deaths and injuries from truck accidents, and that employees are protected from workplace hazards.

One of the legal tools critical to the success of the DOT's efforts is the Duty clause, as drafted in Section 6. The language here corresponds exactly to Section 5 in the Occupational Safety and Health Act. The significance of this section is explained in the Legislative History of OSHA, published by the Senate Subcommittee on Labor, and partially quoted below:

"The committee recognizes that precise standards to cover every conceivable situation will not always exist. This legislation would be seriously deficient if any employee were killed or seriously injured on the job simply because there was no specific standard applicable to a recognized hazard that could result in such a misfortune. . . .

". . . Under principles of common law, individuals are obliged to refrain from actions which cause harm to others. Courts often refer to this as a general duty to others . . . The committee believes that employers are equally bound by this general and common duty to bring no adverse effects to the life and health of their employees throughout the course of their employment. Employers have

Digitized by Google

primary control of the work environment and should ensure that it is safe and healthful . . .

"There is a long-established statutory precedent in both Federal and State law to require employers to provide a safe and healthful place of employment. Over 36 states have provisions of this type, and at least three Federal laws contain similar clauses, including the Walsh-Healey Public Contracts Act, the Service Contract Act, and the Longshoremen's and Harbor Workers' Act . . .

"The committee recognizes that accomplishment of the purposes of this bill cannot be totally achieved without the fullest cooperation of affected employees. In this connection, Section 5 b expressly places upon each employee the obligation to comply with standards and other applicable requirements under the act . . ." (pp. 149–50).

We do not believe that trucking industry employers should be held to a lower standard of obligation than thousands of other employers who are expected to provide safe and healthy workplaces. This is particularly true since the on the job death rate is much higher in trucking than in most other occupations. Moreover, a trucking company's safety and health practices have directed and immediate consequences for public safety. A hazard which results in the death of employees often also results in deaths to members of the public as well.

Question 9. Do you support the 10,000 pound Gross Vehicle Weight standard which is set up by S. 2970?

Answer. No, we do not. The purpose of the Truck Safety Act is twofold, to reduce the number of accidents, injuries and deaths caused by or involving trucks and to provide job safety and health protections to commercial motor vehicle drivers, a group effectively excluded from the rights and obligations established by Congress in the Occupational Safety and Health Act.

Trucks under 10,000 lbs. G.V.W. represent both a major source of accidents and a major occupational group. The accidents in this vehicle and driver category have been growing rapidly and should not be ignored.

	1975	1976	1977
Fatal accidents[1]	7,335	7,966	8,689
Truck occupants killed	4,332	4,893	5,239
Total fatalities	8,363	9,207	9,987

[1] Involved trucks under 10,000 lb G.V.W., commercial and private.

Source: Data provided by the National Highway Traffic Safety Administration.

City drivers, route drivers, pick-up and delivery drivers should be provided safe and healthy working conditions by employers, and have no less a right to such conditions than drivers of trucks that weigh more. As the figures above indicate, on the job accidents are a major problem in this segment of the trucking industry. Having exempted truck drivers from OSHA safety standards, the Congress should not shut the door on this group again.

When considering whether to include this specific exemption, it should be remembered that the BMCS under the current law already exempts the light weight interstate truck category from many safety rules. S. 2970 would permit these exemptions to remain. As stated in response to question #3, we oppose those exemptions.

Question 10. During the testimony on S. 2970, various segments of the trucking industry disagreed as to how many truck drivers of each different type of carrier they are. Would you supply the Committee with statistics which you consider to be accurate and the sources from which they were drawn?

Answer. We do not know of any published statistics on the population of truck drivers broken down by economic type. Estimates do exist of the total number of truck drivers, but they vary widely.

While the Bureau of Labor Statistics states that there are 549,000 long distance drivers and 1,649,000 local truck drivers, the Bureau of Motor Carrier Safety has unofficially estimated that there are 4 million truck drivers subject to their jurisdiction and an additional 3 to 4 million drivers in intrastate commerce. We are attaching a letter from the BLS explaining the derivation of their population estimates. No similar explanation has been published by the BMCS and we therefore consider the BLS estimates more reliable.

A generally accepted estimate of the number of owner-operators is 100,000, but recent fluctuations in the industry, shifting drivers from common to contract status, would make all but the most recent statistics totally unreliable.

Digitized by Google

U.S. DEPARTMENT OF LABOR,
BUREAU OF LABOR STATISTICS,
Washington, D.C., September 29, 1978.

MS. SUSAN GINSBERG,
Professional Drivers,
Washington, D.C.

DEAR MS. GINSBERG: Pursuant to your telephone conversation of September 11 with Vance Anthony of my staff, I am providing a description of the method used to estimate employment of long-distance truckdrivers for the Occupational Outlook Handbook.

Our estimate is based on data obtained from the Current Population Survey (CPS), a monthly survey of approximately 55,000 households that is conducted by the Census Bureau. The occupational titles and definitions used in the CPS are the same as those in the decennial census reports. I am enclosing a copy of the job titles included in the occupation truckdriver from the 1970 Census Classified Index of Industries and Occupations.

The CPS provides an estimate of the total number of truckdrivers, but makes no distinction between long-distance and local drivers. The method of determining employment in these occupations has been developed by economists on the Handbook staff. As you will note, many assumptions were made in developing the methodology. While our estimate cannot be considered precise, we believe that if you accept the Census definition of truckdrivers, it is reasonable to accept the general magnitude of our figure as well.

The procedure for estimating long-distance truckdriver employment essentially consists of determining the number of long-distance truckdrivers by industry in 1967, summing the total, calculating the ratio of this estimate to the 1967 CPS estimate of total truckdrivers, and applying a modification of this ratio to the current CPS estimate for truckdrivers.

The number of long-distance truckdrivers employed by an industry is assumed to be related to the number and use of trucks in the industry. The 1967 Census of Transportation provides data on the number of trucks (excluding pickups and vans), the average number of miles driven, and their use—local, short-haul, or long-haul driving. Trucks used for short or long hauls were considered used for an estimate for long-distance truckdrivers.

Two methods were used to translate the number of trucks into an estimate of long-distance truckdrivers. The first used data on truckdrivers by industry from the 1970 Census of Population. (It is assumed that the 1970 distribution fairly represents the 1967 distribution.) The proportion of long-distance trucks to total trucks in an industry was applied to the number of truckdrivers to yield an estimate for long-distance truckdrivers.

The second method assumes that the number of long-distance truckdrivers in an industry is equal to the product of the ratio of the average miles driven by long-distance trucks in that industry to average miles driven by long-distance trucks in the "for hire" industry and the number of long-distance trucks in the industry.

Based on the economists' knowledge of each industry, one of these estimates was selected. Summing the individual industry figures yielded a 1967 estimate of truckdriver employment, which when compared to the 1967 CPS estimate of truckdrivers, provided a long-distance to total truckdrivers ratio. Applying this ratio to total truckdrivers reported in later years would effectively assume that the proportion of long-distance to local truckdrivers had not changed. Data from Transportation Facts and Trends, published by the Transportation Association of America, however, indicate that the proportion of the Nation's freight bill resulting from intercity trucking has declined relative to that from local trucking. To take this fact into account, an index of the local to intercity freight bill was developed (1967=100) and used to adjust the ratio so it could be applied to other years estimates of total truckdrivers.

Following this procedure, of the 1,898,000 truckdrivers reported in the CPS in 1977, 549,000 are estimated to be long-distance truckdrivers. Incidentally, our

Digitized by Google

estimate of the number of local truckdrivers consists of the remaining 1,349,000 Census truckdrivers plus an estimated 300,000 of the 516,000 individuals classified by the Census as "delivery and routemen." The remaining 216,000 persons in this category perform as salesworkers as well as drivers and are considered route drivers for the Handbook. Thus, local truckdrivers would number 1,649,000 in 1977.

I hope that this information will be of help to you. If you have any questions or if we may be of further assistance, please contact Mr. Anthony on 523-1110.

Sincerely yours,

NEAL H. ROSENTHAL,
Acting Chief, Division of Occupational Outlook.

Question 11. The National Transportation Safety Board estimated their manpower and the resource needs for carrying out the provisions of S. 2970 on the basis of comparison with the Occupational Safety and Health Administration's experience. Do you consider such a comparison valid? Would you supply the Committee with what you consider to be accurate statistics for on the job in truck accidents over the past 5 years?

Answer. The comparison with OSHA as a means of estimating NTSB manpower and other resource needs is misleading. The NTSB's role will be limited to that of hearing appeals resulting from decisions made by the BMCS. This is a function of the OSHA Review Commission, not of OSHA itself. Even the experience of the OSHA Review Commission is not usefully comparable because a) OSHA extends protections to a far larger population of workers than the BMCS would under S. 2970 and b) OSHA has many more regulations subject to violation, complaints, citations and appeals than the BMCS.

In order to avoid creating manpower problems on the scale anticipated by the NTSB, it is very important to continue to restrict the BMCS's authority to those safety and health problems it is equipped to solve.

S. 2970 correctly limits occupational safety and health protections to truck drivers (sec. 7(b)). Other workers in the trucking industry, including mechanics and freight handlers, are protected by OSHA. This is true in every area, from fork lift safety practices to the standard covering exposure to asbestos, of critical importance to truck mechanics.

On the other hand, public safety is fully protected under Section 7(a) which empowers the BMCS to set whatever standards are necessary to require the safe maintenance of trucks, including standards applicable to mechanics. In this respect, S. 2970 is consistent with and clarifies the BMCS's current authority, but does not extend it.

Any attempt to increase the applicability of the bill, by including a broad definition of "employee", would result in manpower problems beyond even those mistakenly foreseen by the NTSB.

B. There are no reliable statistics for on-the-job truck accidents over the past 5 years. Reliable statistics on the number of on-the-job fatalities are available from 1975.

The Bureau of Labor Statistics publishes estimates of an occupational injury and illness rate, measured in lost work days, for an occupational category called "trucking, local and long distance" (Standard Industrial Classification 241). But these figures are not very useful for several reasons. First, SIC 241 includes all workers in the industry, not only truck drivers. Second, it excludes drivers who work for companies whose business is primarily other than trucking, and finally, the group does not measure the accident experience of owner-operators.

The BLS estimate on fatalities in SIC 241 is of limited usefulness for the same reasons. In 1976, the BLS estimates that 400 workers were killed out of a total of 1,127,500 employees.

The National Highway Traffic Safety Administration provides reliable information on the number of fatal truck accidents. I am attaching a chart including information about heavy truck fatal accidents. NHTSA's Fatal Accident Reporting System has been active only since 1975.

Digitized by Google

HEAVY TRUCK ACCIDENT FATALITIES,[1] 1975–77

	1975	1976	1977	In percent: 1975 to 1976[2]	1976 to 1977[2]	1975 to 1977[2]
Total fatal accidents involving heavy trucks	2,858	3,376	3,774	18.1	11.8	32.1
Total fatalities from heavy truck accidents	3,483	4,077	4,501	17.1	10.4	29.2
Total fatalities in all truck accidents	5,477	6,130	6,314	11.9	3.0	15.3
Fatalities in heavy truck accidents by vehicle:						
Passenger car occupants	1,895	2,149	2,357	13.4	9.7	24.4
Motorcyclists	101	110	109	8.9	−.9	7.9
Bus occupants	5	8	6	60.0	−25.0	20.0
Pedestrians and other nonoccupants	279	355	371	27.2	4.5	33.0
Emergency and other special-use vehicle occupants	24	22	28	−8.3	27.3	16.7
Pickup truck occupants	332	412	515	24.1	25.0	55.1
Van occupants	60	63	75	5.0	19.0	25.0
Small and medium weight truck[3] occupants	425	512	626	20.5	22.3	47.3
Heavy truck occupants[4]	717	862	954	19.7	11.2	33.1
Heavy truckdrivers	587	715	799	21.8	11.7	36.1
DETAIL OF HEAVY TRUCK OCCUPANT FATALITIES, 1975–77						
Heavy trucks:						
Single-unit	42	34	67	−19.0	97.1	59.5
2-unit	651	780	832	19.8	6.7	27.8
Multiunit	24	48	55	100.0	14.6	129.2

[1] Heavy trucks are those trucks weighing more than 26,000 lb.
[2] Percentage increase over the indicated period.
[3] Trucks weighing less than 26,000 lb.
[4] See detail.

Source: NHTSA, Fatal Accident Reporting System.

Question 12. Would you comment on the draft regulations to update the hours of service regulations recently promulgated?

Answer. Yes, gladly. First, the draft regulations consist only of an advanced notice, not proposed rules. This indicates that the BMCS plans to extend the proceeding for a minimum of two years, and probably longer.

Fatigue—with accompanying amphetamine abuse—is a major problem in trucking. PROD estimates that as many as a third of the fatal truck accidents are related to fatigue. This is not surprising in view of the astonishingly long hours driven by truck drivers, and their irregular scheduling. The rules permit 10 hours driving at a stretch in a 15 hour on duty period, which need not run consecutively, effectively extending work shifts up to 20 hours or longer. Drivers are allowed 8 hours off between shifts, but they can be called at the 6th hour to arrive at work on the 8th. Many drivers are expected to be on call at all times, 24 hours a day in order to receive a work call. A driver who arrives home in the evening in time for a night's sleep, can be called the following evening to begin his trip after an active day. Weekly hours can total 60 hours in 7 days or 70 hours in 8 days, with no scheduled days off.

The rules have been in existence for approximately 40 years. A lawsuit by PROD in 1973 prompted the proceeding which resulted in the current advanced notice. The proposed rules, however, do not affect the 60 hour week, nor do they propose advanced notice of trips for drivers. While a lengthening of off duty time is proposed, so is a lengthening of driving time—to 11 hours.

The slight beneficial modifications which have been proposed are opposed by the trucking industry, which takes the position that any change will create dire economic consequences for companies and consumers, and that fatigue does not represent a serious safety problem today.

While driver members of PROD are deeply concerned about safety and fatigue, and also feel the need for more time with their wives and children, they and many other drivers are also concerned that they not be asked to choose between their life and livelihood.

The BMCS, however, is not authorized to consider the question of fair wages and hours, but only of public safety. The agency's limited mandate in the area was created by Congress when it exempted the trucking industry from the Fair Labor Standards Act.

Digitized by Google

The lack of any overtime provisions, or their equivalent, means that trucking companies profit by working employees extraordinarily long hours. Since most drivers are paid by the mile, rather than by the hour, they have a built in incentive to speed. An exception to this rule is United Parcel Service, which pays by the hour. Many drivers are paid a percentage of the load, rather than by the mile. These working conditions have contributed to the threat to public safety posed by some trucking companies.

We do believe that some changes in the hours rules can and must be made immediately, and that the BMCS has delayed far too long in proposing new rules.

We also believe that Congress should take a hard look at its exemption of the trucking industry from the Fair Labor Standards Act, and at the limited mandate the BMCS has with respect to hours rules.

Our recommendation is that the Committee consider amending S. 2970 to require that a study be made of the consequences of including the trucking industry under the FLSA. The study, or group of studies, should examine the implications for 1) public safety, taking into consideration the costs, medical and otherwise, of highway accidents related to fatigue, 2) employee safety and health and earning power, and 3) costs to industry and the consumer. The effects of shifting from mileage pay to hourly pay should be specifically considered.

The Committee may want to establish an interdepartmental task force, including representatives from the Federal Highway Administration or DOT, the ICC and the Department of Labor to be responsible for the study. Whether the Committee chooses to create an interdepartmental task force or an independent commission, the scope of the hours issue clearly goes beyond the limited authority and expertise of the DOT.

After examining the issues, the Committee may decide that the Fair Labor Standards Act should be amended, or that trucking industry hours should be established by Congress, rather than the BMCS.

Thank you for the opportunity to comment on this vital issue.

Question 13. Do you feel that more extensive (or intensive) investigation into the causality of fatal truck accidents would produce more reliable statistics?

Answer. Yes, definitely. In depth accident investigations, such as those performed by the NTSB are invaluable in suggesting ways to reduce accidents.

In depth accident investigations are particularly important in truck accidents, as critical details of the accident are generally not included in normal police reports, i.e. vehicle weight, position of the cargo in the truck, hours driven by the driver.

In order to facilitate accident investigations, the Committee should ensure that the NTSB and the BMCS have the power to impound equipment until it has been examined by investigators.

Question 14. Would you supply the Committee with a list of the top eight mechanical difficulties which your membership encounters in their rigs, ranked according to frequency?

Answer. The following is a list of the top maintenance related mechanical problems that drivers have:

1. Brakes: (65% or more trucks)—Frayed air lines, brake linings need replacement, brakes need adjustment, and triple valves rusty and dirty (blocks air).
2. Steering: (50% of trucks, after 100,000 miles)—Kingpin bushings worn, shackle bushings worn, tandem bushings worn, gears in steering box worn or loose, and universal joint worn. (These problems cause front end darts, erratic steering, or slack).
3. Lights: (50% of trucks)—Replacements needed, and wire shorts (after 200,000 miles).
4. Suspension: (40–50% of trucks)—Shocks worn, or have been removed entirely, broken leaf spring, and bushings worn.
5. Tires: (40% of trucks)—Underinflated, and treads worn.
6. Wheels: (15% of trucks)—Loose lugs, and broken studs in brake drums.
7. Exhaust: (varies widely)—Leaking.

The following is a list of the top eight design related mechanical problems cited by drivers:

1. overloaded front axle.
2. forward mounted fifth wheel.
3. inadequate brakes.
4. placement of recaps on tractor wheels.

Digitized by Google

5. interior cab space too cramped.
6. handling and stability problems with doubles.
7. steering system needs securing.
8. visibility: blind spot on right; iced over mirrors.

Question 15. How often do you receive complaints about the transportation of hazardous materials (e.g., fumes, leakage, faulty container tanks, etc.)?

Answer. PROD does not regularly receive complaints about hazardous materials operations. We have received individual reports that there are widespread problems, and one report of a fatality after leakage in an improperly placarded trailer. We think that the lack of complaints is due not to the lack of problems, but drivers' lack of knowledge about what they are carrying. The BMCS has not provided any instruction to drivers in the identification of hazardous materials or in the rules and procedures surrounding them. Were drivers and dockworkers to be more aware of the potential problems they would be more likely to report them.

Question 16. How valid do you consider the trucking industry's claim that the blame for truck accidents falls primarily upon the so-called "gypsies"?

Answer. We have not seen any evidence which shows that owner-operators or small exempt companies are responsible for more accidents per mile or relative to their total population. Without such evidence, we cannot consider the claim valid.

Our own experience has been that operating practices vary among carrier types, with consequences for safety and health:

Owner operators, especially independent, as opposed to lease, drivers, violate the hours rules, the speed limit and the weight laws more frequently than the regulated common carriers. But, owner operators are equipped with safer vehicles to begin with than fleet drivers—better suspensions, better steering, seats, interior cab design. The Kenworth and Peterbuilts are known as the Cadillacs of trucks.

Large private carriers with their own fleets (not using owner operators) keep their vehicles in safer condition than do regulated common carriers and exempt owner operators, with some exceptions.

Regulated common carriers violate speed, hours and weight laws, but not as often as owner operators. However, BMCS reports show that regulated common carriers have the worst maintenance record measured in road side checks of all three types (exempt, private, common). Not only are common carrier vehicles more frequently found in imminently hazardous condition on the highways, they are also less safely designed than vehicles purchased by owner operators.

Question 17. Would you supply the Committee with a blueprint for what you would consider to be an adequate maintenance program for a fleet of five trucks?

Answer. Attached is an example of a reasonable periodic maintenance program, preventive, to be performed on a Detroit Diesel. The functions listed would be done in addition to regular pre- and post-trip vehicle inspections by drivers and mechanics.

Digitized by Google

Form M-104-D (12/77)
Printed in U.S.A.

Unit No._____
Date _____
Location_____

DETROIT DIESEL SERVICE INSTRUCTIONS

OK | Repair

No. 1 Inspection - 15,000 Miles:

- ☐ ☐ Add fuel and oil (do change oil)
- ☐ ☐ Change all oil filters and secondary fuel filter on units equipped with Racor 1000 FEN; both fuel filters other tractors.
- ☐ ☐ Grease front end, rive ine, 5th wheel only.
- ☐ ☐ Check transmission and differential lube.
- ☐ ☐ Check coolant protection; ad Perry liquid as required.
- ☐ ☐ Clean windshield
- ☐ ☐ Check windshield wipers and washers, safety equipment.
- ☐ ☐ Safety related items.
- ☐ ☐ Clean out cab
- ☐ ☐ Advise foreman of any abuse
- ☐ ☐ Check freon compressor belts

No. 2 Inspection - 30,000 Miles:

- ☐ ☐ Steam clean tractor - radiator - batteries with cover removed.
- ☐ ☐ Change lube oil and all oil filters.
  Advise shop foreman if any of the following conditions are present:
  A. Water in filter or oil
  B. Metal cuttings in filter or oil
  C. Amount of oil in pan unusually low
- ☐ ☐ Change both fuel fi er elements. Drain water-fuel separators.
- ☐ ☐ Check condition of ll belts nd adjust as needed.
- ☐ ☐ Inspect air intake system; correct as necessary.
- ☐ ☐ Check exhaust system for leaks; repair as necessary.
- ☐ ☐ Check for fuel leaks
- ☐ ☐ Grease tractor completely.
- ☐ ☐ Check differential and transmission; lube and fill to correct level.
  Transmission No. 50W H.D. motor oil MIL-L-2104C;
  Differential No. GL5 SAE 85-140.
  Advise shop foreman transmission or differential requires excessive amount of lube to fill. Check universal joints and yokes for looseness with all brakes released. Check housing vents.
- ☐ ☐ Check water hoses, oil lines and air lines for chafing and/or leaking; replace as necessary.
- ☐ ☐ Check water pump, fan hub and idler for excessive wear.
- ☐ ☐ Check radiator for any leaks
- ☐ ☐ Check and add antifreeze if needed (WINTER ONLY). Advise shop foreman if radiator requires excessive amount of coolant to fill. DO NOT OVERFILL RADIATOR.
- ☐ ☐ Check batteries fo correc water level and quired holddowns Replace defective or missing ell aps. Check cables for chafed condi ions. Remove corrosion and tighten all connections Check battery box brackets
- ☐ ☐ Check all light reflector wiring, nd light cab correct as necessary.
- ☐ ☐ Che k dimmer switch, turn signals and stop light switch for correct operation.
- ☐ ☐ Check all instruments luding warning devices & tractor protection valve for proper operation.
- ☐ ☐ Check heater defroster for prope operation. Determine that valves vents operative.
- ☐ ☐ Check windshield wiper including blades for proper operation. Check cab glass for all defects. Che k mirrors and brackets. Check windshield sher for operation.
- ☐ ☐ Check clutch operation adjust to 1/2" between release bearing face front brake disc.
- ☐ ☐ Check steering sector and shift box for correct amount of lube. Add 50 H.D. motor oil if necessary Check complete steering gear, linkage and king pins for wear and looseness. Drain moisture from steering sector.
- ☐ ☐ Check and set toe in 1/16.
- ☐ ☐ Check al springs for broken plys and tie bolts. Check all u-bolts and spring seats for looseness
- ☐ ☐ Tighten and repair any loose cab mounts, latches, or hinges. Cab hoist & cab hoist safety device.
- ☐ ☐ Check th wheel mountings, slide & slide stops for any cracks or looseness and jaws for excessive wear
- ☐ ☐ Check air compressor for excessive oil pumping. Check air tank brackets.
- ☐ ☐ Adjust brakes; check brake lining for wear, broken shoe return springs & cracked brake drums. Replace brake lining of 3/8" or less. Determine that 121 is operative.
- ☐ ☐ Check ir in tires 85 lbs drive; 95 lbs. steering. Date tires. Advise foreman of any breaks or severe wear Install all metal valve caps.
- ☐ ☐ Check all wheels for cracks or loose studs & nuts.
- ☐ ☐ Check all wheels for leaking seals. Replace as necessary
- ☐ ☐ Check for correct afety equipment: 3 reflector flares, 2 fire extinguishers (full and sealed) and 1 accident report envelope.

Digitized by Google

OK Repair

[ ] [ ] Check for state inspection being due.
[ ] [ ] Make sure all parts, oil, etc., are properly charged out on work order and fuel sheet.
[ ] [ ] Correct dipstick if it has more than 2 marks (1 high, 1 low) Take oil sample.

No. 3 Inspection - 90,000 Miles: (Includes all items on No. 1 & No. 2 Inspections)

[ ] [ ] Tighten engine and transmission mounting bolts
[ ] [ ] Replace dry air cleaner.
[ ] [ ] Grease fan hub, water pump
[ ] [ ] Dyno check, vacuum check. Perform work as necessary.
[ ] [ ] Replace mounting gasket # 5571024 for 670 oil filter adapter plates. Torque base plate to 45 to 50 foot pounds.

No. 4 Inspection - 180,000 Miles:(Includes all items on No. 1, 2, and 3 Inspections)

[ ] [ ] Check turbocharger for excessive radial and end clearance.
[ ] [ ] Replace all engine belts.
[ ] [ ] Replace water pump & fan hub.
[ ] [ ] Check alternator.
[ ] [ ] Replace all engine to radiator hoses except Silicone.
[ ] [ ] Drain transmission; check for excessive cuttings. Install 50W H.D. motor oil MIL-L-2104C, if further repair is not required.
[ ] [ ] Drain differential; check for excessive cuttings and slack. Install lube GL5 SAE 85-140 if further repair is not required.
[ ] [ ] Check tandem alignment Replac any tandem bushings that are worn excessively.
[ ] [ ] Check king pins and bushings for wear
[ ] [ ] Tighten differentia rie mounting bolts.
[ ] [ ] Check out all wiring. DO NOT PATCH Replace if worn.
[ ] [ ] Dyno test tractor
A. Check operation of fan clutch.
B. 8V71 WHP with SQHD tandem should be between 220 & 225.

C. Speedo must register within 3 MPH of actual speed 55 MPH @ 1950 8V71

D. Injector height 65 mm 1.484; 60 mm 1.460.

[ ] [ ] AFTER INSPECTION IS COMPLETE OR AT END OF DYNO RUN, RECHECK FOR ANY OIL, WATER, OR FUEL LEAKS.

No. 5 Inspection - 240,000 Miles:

[ ] [ ] Drop pan. Check main and rod bearings; replace as necessary.

[ ] [ ] Replace fuel pump and injectors.
[ ] [ ] Replace alternator.
[ ] [ ] Replace blower and blower drive

This PM has mileage accumulation separately. A 1, 2, 3, or 4 should be worked in addition to the number 5; both must be mauded.

Component replacement status will be given when any PM is due from 2740.

ANY PART THAT SHOWS EXCESSIVE WEAR SHOULD BE REPLACED. SECURE YOUR FOREMAN'S APPROVAL.

ADVISE SHOP FOREMAN OF ANY ABNORMAL WEAR OR DAMAGE TO ANY PART OF DRIVE COMPONENTS OR CHASSIS FOUND DURING THIS INSPECTION.

THE WORD CHECK = DETERMINE CONDITION.

SERVICEMAN _____ MECHANIC _____

Digitized by Google

Question 18. Would you supply the Committee with examples of letters of complaints from truckers who have been "persuaded" to take out unsafe rigs against their own better judgment (Names may be blotted out.)?

Answer. A few of the many letters containing such complaints have been supplied to the Committee in an Appendix with PROD's testimony.

Thank you for the opportunity to answer questions. We hope our comments will be helpful to the Committee.

SUSAN GINSBURG,
Safety and Health Director PROD.

The CHAIRMAN. The next witness, Mr. C. H. Fields, assistant director of national affairs, American Farm Bureau.

STATEMENT OF C. H. FIELDS, ASSISTANT DIRECTOR, NATIONAL AFFAIRS, AMERICAN FARM BUREAU FEDERATION

Mr. FIELDS. Thank you, Mr. Chairman. I will not read the entire statement. I'll submit it for the record and try to summarize it to save time, since I know you're probably as hungry as I am.

I would like to state that farmers and ranchers own more than 3 million trucks, many of which come under the restrictions and regulations that would be imposed under S. 2970. However, this is only part of our concern with this bill.

Farmers have become so dependent upon truck transportation to move agricultural freight to and from their farms, that any proposal that would increase the cost of such transportation, reduce its efficiency, or lessen the availability of trucks where needed, often for highly perishable farm products, is a matter of vital concern to our industry.

Trucks now haul about three-fourths of all the fresh fruit and vegetables and virtually all of the cattle, calves, hogs and sheep that move to market. Farmers are more dependent on truck transportation than ever before in moving necessary production equipment and supplies to their farms—moving the product away from the farms to the consuming markets.

This has been brought on, of course, by the deteriorating situation of the rails.

Under the present motor carrier safety regulations of the Bureau of Motor Carrier Safety, title 49, several important exemptions are provided for farmer-owned trucks. Of course, they're also provided in the present act.

Farm vehicle drivers operating trucks with a gross weight under 10,000 pounds are totally exempt from driver qualification regulations. Farm vehicle drivers operating straight trucks with a gross weight over 10,000 pounds within a 150-mile radius of the farm are totally exempt from driver qualifications.

Farm vehicle drivers operating a tractor trailer unit within 150-mile radius of the farm are exempt, except that they must be 18 years of age and must have a medical certificate of prescribed form.

Drivers employed by custom operators are totally exempt while transporting custom harvesting machinery to or from a farm or while transporting custom harvested crops to storage or market. And beekeepers transporting bees during seasonal movements are exempt from driver qualifications.

Digitized by Google

Now our reading of S. 2970 leads us to the conclusion that Senator Percy had no intention of permitting a continuation of these farm exemptions. Section 5 makes it clear that the act would apply to the operation of all commercial motor vehicles over 10,000 pounds gross vehicle weight rating, and to the maximum hours, qualification, working conditions, and duties and responsibilities of all persons who operate such commercial motor vehicles.

The term commerce is defined to mean any trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside a State or "which affects trade, traffic, or transportation between a State and any place outside of such State."

It's clear he intends to regulate intrastate as well as interstate.

We estimate that at least half of the 3 million plus trucks owned by farmers are 10,000 pounds GVWR or higher, and that farmers own millions of trailers, wagons, nurse tanks, combines, and other self-propelled or towed equipment that would be covered by this bill.

To our knowledge, there is no evidence of a serious safety problem with these vehicles and we believe it would be both counterproductive and extremely irritating to farmers to be forced to comply with these extensive regulations, which include trip logs, restrictions on hours of driving time, and age limits.

Now if the Bureau of Motor Carrier Safety's current proposal or rulemaking on hours of service regulations is required to be changed to conform with the requirements of S. 2970, it would mean that farmers would have to give truck drivers a half hour off after every 2½ hours of driving time.

What would happen if that particular time occurred when the driver was in line at the local grain elevator? You can guess how farmers would react to a regulation that would limit to 15 hours the maximum hours of work in any one day, especially at the busy planting and harvesting time.

We also make comments with regard to increasing the penalties—I won't go into further detail.

Section 8 provides for inspections of private property, and that includes farms with all these farm vehicles, wherever practical without advance notice.

This is the type of Federal policing law that has been struck down by the courts as unconstitutional in the case of the Occupational Safety and Health Act. We certainly would object to that.

We also have a concern about section 13. More and more we see the Congress passing legislation which baits the States with Federal dollars to enforce such legislation by enticing them to adopt federally approved regulations.

All too often the Federal dollars do not pay the full cost. Of course, this bill provides that the Federal Government would only pay 80 percent of the cost.

Many members of the Senate, including Senator Percy, have spoken out against needless regulation and the needless growth of the power and cost of Government at the Federal level.

We believe this bill would lead to unnecessary and nonproductive regulation of farmers and other truck owners, which, in turn, would mean higher costs that would have to be passed along to consumers.

Digitized by Google

Frankly, we see no need for this legislation. We believe that truck safety regulations already in existence are capable of taking care of the situation if properly enforced.

We urge the committee to reject this legislation.

Mr. Chairman, I have also given to the staff a letter from Mr. Harold Steele, president of the Illinois Agricultural Association. We'd like for that to be included as well in the record.

The CHAIRMAN. All right. That will be included as part of the record.

Is there any part of this legislation that you approve of, or do you think the entire legislation should be rejected?

Mr. FIELDS. We certainly can't approve it as written. We certainly aren't against truck safety or removal of all the exemptions in this bill.

We certainly oppose the bill as it's written. I'm not saying we'd be against all proposals to improve safety.

We could go along, for example, with funding out of the highway trust fund to the States to improve safety inspection programs.

I don't think we'd object to that. We think the area of improvement ought to be in the area of enforcement rather than more Federal regulations against all of us.

The CHAIRMAN. You pointed out that there are many exemptions under present regulations for farm-owned trucks and farmer-related towed equipment.

What are the regulations, if any, that govern those kinds of trucks?

Mr. FIELDS. I listed them in detail in the statement, Senator. They have to do with hours of service. They have to do with driver qualification.

The CHAIRMAN. No, no. I'm talking about what regulations you do have, not what are the exemptions.

Mr. FIELDS. Well, we're subject to all of them. For example, the hours of service. There's no specific farm exemption in that.

The CHAIRMAN. You said in your statement that you were pointing out how ridiculous it was to have an hours-of-service limitation because the farmers frequently have to work 15 hours.

Mr. FIELDS. I'm talking about the one they're proposing now in the proposed rulemaking, not in the existing one.

The CHAIRMAN. What is the existing one?

Mr. FIELDS. This bill requires that to be changed further than the present law proposes. We would come under it.

The CHAIRMAN. What are the present hours of service that would apply to farmer-driven equipment?

Mr. FIELDS. If you're under 10,000 pounds and under minimums, then you don't have it. There's 150-mile limitation. You don't have it.

The CHAIRMAN. You're not governed by the hours of service there.

Mr. FIELDS. Right.

The CHAIRMAN. Now what I'm saying is what regulations are you governed by, if any? Do you have any regulations on the equipment, farm equipment?

Mr. FIELDS. We'd be subject to the same equipment safety regulations on over-the-road operations and so forth.

Digitized by Google

The CHAIRMAN. You also said in your statement that in regard to farmer-owned trucks and farm-related towed equipment, that there was no evidence of a serious safety problem with these vehicles.

Do you have any statistics to support that?

Mr. FIELDS. That's why we made that statement. Somebody's got to produce the evidence.

The CHAIRMAN. Additional statistics to support that. Is that what you're saying?

All right. Thank you very much, Mr. Fields.

[The statement follows:]

STATEMENT OF C. H. FIELDS, ASSISTANT DIRECTOR, NATIONAL AFFAIRS, THE AMERICAN FARM BUREAU FEDERATION

Farm Bureau is a voluntary, nongovernmental organization of more than 2.8 million families in 49 states and Puerto Rico, representing farmers and ranchers who produce every agricultural commodity produced on a commercial basis in the United States.

Farmers and ranchers own more than 3 million trucks, many of which would come under the restrictions and regulations that would be imposed under S. 2970. However, this is only part of our concern with this bill. Farmers have become so dependent upon truck transportation to move agricultural freight to and from their farms that any proposal that would increase the cost of such transportation, reduce its efficiency, or lessen the availabiilty of trucks when they are needed, often for highly perishable farm products, is a matter of vital concern to our industry. We believe that this bill would have exactly these effects on truck transportation.

Trucks now haul about three-fourths of all fresh fruit and vegetables, and virtually all of the cattle, calves, hogs, and sheep that move to market. Farmers are more dependent on truck transportation than ever before in moving necessary production equipment to supplies to their farms—in large measures as a result of the deterioration of rail service in many agricultural areas.

Under the present motor carrier safety regulations of the Bureau of Motor Carrier Safety, Title 49, Part 391, several important exemptions are provided for farmer-owned trucks. Farm vehicle drivers operating trucks with a gross weight under 10,000 pounds are totally exempt from driver qualification regulations. Farm vehicle drivers operating straight trucks with a gross weight over 10,000 pounds within a 150-mile radius of the farm are totally exempt from driver qualifications. Farm vehicle drivers operating a tractor-trailer unit within a 150-mile radius of the farm are exempt, except that they must be 18 years of age and must have a medical certificate of prescribed form. Drivers employed by custom operators are totally exempt while transporting custom-harvesting machinery to or from a farm or while transporting custom-harvested crops to storage or market; and beekeepers transporting bees during seasonal movements are exempt from driver qualifications.

Our reading of S. 2970 leads us to the conclusion that Senator Percy had no intention of permitting a continuation of these farm exemptions. Section 5 makes it clear that the Act would apply to the operation of all commercial motor vehicles over 10,000 pounds gross vehicle weight rating (GVWR), and to the maximum hours, qualifications, working conditions, and duties and responsibilities of all persons who operate such commercial motor vehicles. The term "commerce" is defined to mean any trade, traffic or transportation within the jurisdiction of the United States between a place in a state and place outside of such state, or "which affects trade, traffic, or transportation between a State and any place outside of such State." The term "employer" is defined to mean any and all persons engaged in a business "affecting commerce" who own, lease, or operate commercial motor vehicles in connection with that business, or assign employees to operate them in commerce. The only exemption is for government-owned vehicles. The term "commercial motor vehicle" means "any self-propelled or towed vehicle used on the highways in commerce. . . ."

We estimate that at least half of the 3 million plus trucks owned by farmers are 10,000 pounds GVWR or higher; and that farmers own millions of trailers, wagons, nurse tanks, combines and other self-propelled or towed equipment

Digitized by Google

that would be covered by this bill. To our knowledge, there is no evidence of a serious safety problem with these vehicles, and we believe it would be both counterproductive and extremely irritating to farmers to be forced to comply with these extensive regulations, which include trip logs, restrictions on hours of driving time and age limits.

If the Bureau of Motor Carrier Safety's current proposal on hours of services regulations is required to be changed to conform with the requirements of S. 2970, it would mean that farmers would have to give truck drivers a half-hour off after every 2½ hours of driving time. What would happen, if that particular time occurred when the driver was in line at the local grain elevator? You can guess how farmers would react to a regulation that would limit to 15 hours the maximum hours of work in any one day, especially at the busy planting and harvesting time.

This bill contains other general provisions that concern us. We cannot see the justification for a 400-percent increase in penalties (from $500 to $2,500) even if they have not been increased since 1957. It is certainly left to broad interpretation as to what the term "substantial health or safety violation" that "would reasonably lead to, or has resulted in, serious personal injury or death" will be construed to mean. In these cases, the maximum civil penalty is $10,000 for each offense.

Section 8 provides for inspections of private property, "whenever practicable . . . without advance notice." This is the type of federal police power that has been struck down by the courts as unconstitutional in the case of the Occupational Safety and Health Act.

We also have a concern about Section 13. More and more, we see the Congress passing legislation which baits the states with federal dollars to enforce such legislation, by enticing them to adopt federally-approved regulations. All too often the federal dollars do not pay the full cost. This bill provides that only 80 percent of the cost would come out of the Highway Trust Fund.

Many members of the Senate, including Senator Percy, have spoken out against needless regulation and the needless growth of the power and cost of government. We believe this bill would lead to unnecessary and nonproductive regulation of farmers and other truck owners, which in turn would mean higher costs that would have to be passed along to consumers.

We see no need for this legislation. We believe the truck safety regulations already in existence are capable of taking care of the situation, if properly enforced. We urge this committee to reject this legislation.

We appreciate the opportunity to present Farm Bureau's views.

The CHAIRMAN. The next witness is Mr. John Kauffman, vice president and director of transportation, American Paper Institute and National Forest Products Association.

STATEMENT OF JOHN KAUFFMAN, VICE PRESIDENT AND DIRECTOR OF TRANSPORTATION, THE AMERICAN PAPER INSTITUTE AND NATIONAL FOREST PRODUCTS ASSOCIATION

Mr. KAUFFMAN. Mr. Chairman, my name is John Kauffman. I'm the vice president of transportation for the Weyerhaeuser Co., Tacoma, Wash. I welcome the opportunity to share with you the views of the forest products industry on S. 2970, the proposed Truck Safety Act.

Our industry could not survive, indeed, could not exist, without safe, efficient trucking. Virtually all of our products are transported by trucks during at least one stage of their journey from forest to mill to customer, and our reliance on trucking is increasing. A number of our member companies have transport fleets, some of which have won national acclaim for their highway safety performance.

We believe our interests coincide with the sponsors' of this legislation and with the public interest in seeking legislation or regulatory programs to make our highways safer. However, we oppose S. 2970 as

Digitized by Google

written, for the reasons we will discuss below. While we support the goals of S. 2970, we feel the data presented to date does not accurately reflect the actual safety record of the trucking industry. Trucks spend much more time on the road and accumulate thousands more miles annually than passenger and other vehicles. The safety record of the forest products industry clearly demonstrates the commitment of our industry to truck safety. We have shown that our industry is capable of policing itself without subjecting itself to the scrutiny of additional regulatory agencies.

Indeed, a more serious safety problem exists among passenger vehicles and the nontruck motoring public. The forest products industry fully appreciates and supports the goal of improving safety on the Nation's highways, as is evidenced by our financial and managerial commitment to this goal, and by our highway safety record.

The broad objectives of the bill, those of advancing commercial motor vehicle safety and averting injuries to operators and the general public, are goals that our industry promotes in our daily business operations, as the following examples reveal.

The accident involvement rate for the truck fleets of Weyerhaeuser and other forest products companies, as supporting data will verify, is even lower than that for all trucks. Weyerhaeuser's private fleets travelled nearly 56 million miles, while experiencing 1.04 accidents per million vehicle miles. This compares to a rate of 13.5 accidents per million vehicle miles for all trucks, and a rate of 22.9 accidents per million vehicle miles for passenger cars. The Potlatch Corp., Georgia-Pacific, and others in our industry have maintained equally impressive safety records throughout the years.

We question the wisdom of extending more Federal Government regulation and allocating Federal resources to an additional 4 million intrastate trucks. Instead, better attention should be given to increased enforcement of existing DOT highway regulations. The statutory authority already exists, but the manpower is lacking within the Bureau of Motor Carrier Safety.

For example, according to a recent press release issued by Senator Percy's office, the Bureau has only 128 inspectors to enforce the current regulations on nearly 4 million existing commercial trucks.

Two specific provisions, sections 7 and 8 of this legislation, cause the forest products industry particular concern. Section 7, extending the authority of the Secretary of Transportation to intrastate trucking, would adversely affect the timber industry. The sparse population in the timberland harvest areas and along the logging routes, and the seasonal nature of our industry, make trucking operations in and from the forests unique. Few public hazards are involved because logging roads are infrequntly used by the driving public, except on weekends when log-hauling is normally not in progress.

Secondly, weather conditions are a major factor that determine work schedules in the logging season in the woods. State legislatures and regulatory agencies have scrutinized our unique industry problems and have generally provided exemptions in their transportation safety codes for the conveyance of certain commodities, generally forestry and agriculture, from the hours of service regulations imposed in that State.

Digitized by Google

It is our understanding that no State has ever found that such exemptions created a safety problem, nor has any such exemption ever been rescinded.

The other provision we wish to bring to your attention, section 8, circumvents the traditional labor-management relationship by providing a mechanism through which an aggrieved individual appeals directly to Federal or State agencies, rather than first exhausting all existing remedies or allowing the employer to address the grievance. This provision is subject to abuse and would be counterproductive and costly, because of the delays and the need for unnecessary factfinding by the State and Federal agencies.

In order to sufficiently protect ourselves from unwarranted complaints by anonymous drivers, we would be forced to spend additional time and resources to maintain records, time that would better be devoted to promoting safety and training programs. We would have to provide checklists and documents every minute item that was safety related. We would have to document all our instructions to drivers. In other words, our managers, supervisors, safety, and maintenance personnel would have to redirect their efforts toward recordkeeping rather than managing and promoting a reliable safety program.

The bill would add greatly to the workloads of the regulatory agencies, who would have to direct their resources to tracking and arbitrating every driver complaint, no matter how unfounded or petty.

It is difficult to see how this legislation could possibly reduce excessive paperwork, as the sponsor of S. 2970 has asserted. Exactly the opposite seems true.

This committee should be aware of a serious problem currently facing employers in disciplining or discharging unsafe or unqualified drivers. We submit that one of the most effective measures this committee could adopt would be to explicitly prohibit any individual or group from obstructing the enforcement or compliance of the Bureau of Motor Carrier Safety regulations.

There are better alternatives to S. 2970 for improving the Nation's highway safety, such as the approach recommended by the chairman, that of establishing a task force to study carefully the need for any new regulations and laws and then, as appropriate, asking Congress to act. Subjects in need of study include:

One, additional research on the causes of highway accidents. Are these accidents due to driver error or equipment failure?

Two, what changes are needed in the equipment design?

And three, examine State programs to learn which ones are effective and why.

A task force including carriers, shippers, transportation equipment manufacturers, unions, and regulatory agencies should jointly undertake such a study, and then make appropriate recommendations for action.

We share your concern about highway safety. However, we feel that the proposed legislation is too broad, that the Federal Government would be more effective if it concentrated its efforts on opportunities to improve existing highway safety programs and developing measures to achieve compliance.

We request the opportunity to submit additional data for the r[illegible]d

Digitized by Google

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Kauffman.

You say you oppose section 8, saying it circumvents the traditional labor-management relationship, permitting aggrieved individuals to go directly to governmental agencies. However, section 12 requires that in order to qualify for protection, the employee must have sought from his employer, but have been unable to obtain, correction of the unsafe conditions.

Don't you think that that balancing factor would satisfy your concern in section 8?

Mr. KAUFFMAN. No, Mr. Chairman. We have a concern because the bill could be interpreted—because the emphasis could be on encouraging employees to submit anonymous complaints, rather than to pursue the normal manager-employee relationships in arriving at solutions.

The CHAIRMAN. But as I understand it, if they submitted anonymous complaints, they still could not proceed unless they had complied with the provisions of section 12.

Mr. KAUFFMAN. In the formal application of the bill, I'm sure that that would be the process. We arrive at this view because to us safety is a very personal matter: That improvements of equipment, inaugurating or implementing regulations and rules are all being done, will continue to be done, will be expanded; but that many accidents, if not most accidents, occur because of human error. They occur because the driver, whether he be the driver of a private vehicle or of a truck, isn't aware of the hazards. He isn't thinking safety. He isn't driving defensively.

The most effective measures we're aware of in order to overcome this are the safety programs that are being carried out in industry, the relationships between the supervisor and the driver, the regular monthly meeting programs that are carried out using visual aids, communications, monthly communications to employees. It's the inspections, the tracking, the training, the regulatory monitoring that is done by the various companies in our industry.

We want to emphasize this area, and we feel that it would be counterproductive if there was any encouragement to circumvent this. It would detract from the need to encourage, to motivate our drivers to think safety every hour that they go on the highway.

The CHAIRMAN. You refer to the problem that companies face in disciplining or discharging unsafe or unqualified drivers. Do you have statistics or data that indicate that your drivers are deliberately subverting company safety programs or State safety regulations?

Mr. KAUFFMAN. Our experience is somewhat different from that. What we're aiming for here would be some guidelines or explicit language that would strengthen the management's ability to deal with grievances where safety is involved. A union is obligated to process an employee's grievance. We understand that. However, when that grievance involves such things as disciplinary action taken because a driver has exceeded the speed limit, or cases where a driver has been found to possibly have been using some drugs such as Valium, we think there should be guidelines, that the legislation could be explicit in meeting these needs.

Digitized by Google

The CHAIRMAN. It isn't a matter of labor relations, though. Isn't that a matter of contractual relations between you as an employer and the union that you have a contract with?

Mr. KAUFFMAN. That's true, Senator. But the day-to-day operation of that relationship, the steward who is processing that grievance, can apply or threaten a slowdown, a walkout, and this can detract from the supervisor, from the manager's encouraging his processing, and the safety rules and regulations, the Bureau of Motor Carrier safety rules and regulations. There have been cases and we could document that.

The CHAIRMAN. If you have some statistics or data that would indicate that drivers or stewards in that respect are deliberately subverting company safety programs or State safety regulations, I wish you'd supply those to us for the record. But other than that, I would think, certainly we are not interested in getting into interference with the normal employer-employee relationship and the contractual obligations that exist, and whatever negotiations you may carry out and agree to in a contractual form with respect to discharge of employees for cause or for various types of reasons. I'm sure you could negotiate new contracts and write that an employee can be discharged for certain reasons.

Don't you have that kind of a provision?

Mr. KAUFFMAN. We do. What we're looking for here is to strengthen the supervisor's ability to enforce the Bureau of Motor Carrier regulations.

The CHAIRMAN. I was impressed by your statistics here on accidents per million miles. How comprehensive is the data base on which you base your accident statistics, and who compiles those statistics?

Mr. KAUFFMAN. Those were ATA statistics, Mr. Chairman.

The CHAIRMAN. In other words, you're showing there of 1.04 accidents in your industry per million miles is certainly impressive when you compare it to a rate of 13.5 accidents per million miles for all trucks and a rate of 22.92 accidents per million miles for passenger cars.

Mr. KAUFFMAN. Mr. Chairman, the 1.04 is a Weyerhaeuser statistic. That's our company's record.

The CHAIRMAN. I see. And is that pretty comparable for the industry, do you think, or do you know?

Mr. KAUFFMAN. I don't have a statistic for the industry.

The CHAIRMAN. But at least that is your own, 1.04, and 13.85—where did you get that figure?

Mr. KAUFFMAN. ATA.

The CHAIRMAN. And the 22.9?

Mr. KAUFFMAN. That's also an ATA statistic.

The CHAIRMAN. Because in the statistics we've been looking at here, they related to deaths, and, of course, the deaths are much higher for trucks. We can understand that. It's a much bigger vehicle. There's probably more opportunity when a person has a very heavy load on his truck and runs in to someone to cause a death.

Thank you very much for your testimony. We appreciate it.

Mr. KAUFFMAN. Thank you, Mr. Chairman.

[The following information was subsequently received for the record:]

Digitized by Google

BIRCH, HORTON, BITTNER AND MONROE,
Washington, D.C., October 6, 1978.

Senator HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: On September 8, 1978, you chaired a hearing on S. 2970, the Truck Safety Act of 1978. Most of the witnesses, including a representative of our industry (John Kauffman of Weyerhaeuser Corporation speaking for the National Forest Products Association and the American Paper Institute), submitted truck safety statistics. By any objective measure, the statistics submitted by Mr. Kauffman showed a sharply lower accident frequency than the national average. In questioning Mr. Kauffman, you stated that our industry's accident statistics were impressive and requested further data.

Potlatch Corporation is responding to your request for additional statistics on trucking safety by submitting the records of our company, which appear below. We appreciate the opportunity you have afforded us to add our input to your hearing record and hope that it serves to promote the goal of improving highway transportation safety without imposing needless regulation on the nation.

BACKGROUND

Potlatch Corporation, as described in its most recent annual report, is "basically a company of tree farmers and wood converters." The Company cultivates forests, harvests timber when it is mature, and converts the raw material at its mills into two major product lines: solid wood products and bleached fiber products. Potlatch Corporation's major operations are conducted in the states of Arkansas, Idaho and Minnesota, where the majority of our timberlands are located.

The safety statistics that we cite below cover only the operations of Potlatch Corporation. The statistics were compiled solely by the Company. We are certain that a search of insurance company records, state highway safety agency reports and a survey of our drivers would confirm their accuracy. The Company has compiled these statistics for internal purposes, primarily to monitor operating efficiency, improve safety practices, moderate costs, and maintain good labor relations.

Our primary objection to S. 2970 is found in Section 7, which extends Federal jurisdiction over truck safety regulations into intrastate commerce. At present, States regulate such trucking and our experience indicates that the States do an excellent job. We have found that States are best suited to understand the unique problems caused by climate and geographical conditions.

Our largest operations are in Arkansas and Idaho. In Arkansas, we do not have logging seasons as such, however, wet weather causes curtailment of trucking operations from time to time. When this occurs, we must do extensive overtime once our road systems are dry in order to transport lumber from forest to mill. In Idaho, we have long periods in both the spring and fall when we cannot operate log trucks. When the roads dry out, particularly during the summer and early fall months, it is necessary for our log transportation operations to work extended workdays to meet production needs. In both States, the vast majority of our trucking is conducted on roads that are sparsely traveled country and State secondary roads. As a result, our trucking operations inherently pose a far smaller public safety hazard than the operations of other industries, which are conducted primarily on well traveled highways

HIGHWAY SAFETY RECORD

In Arkansas, our records covering trucking between forest and mill indicate the following. Since 1961, our log trucks have driven approximately 16 million miles. We have suffered only one accident involving an injury to a member of the public. The single accident that occurred was in no way attributable to our Company. Based on the decision of an impartial arbitrator, the accident was blamed on driver incompetence and the arbitrator sustained our Company's decision to demote the driver. The single accident in question occurred in 1977 when the driver was not exceeding 12 hours on duty per day.

In Idaho, our Company's trucking operations average approximately 2.5 million miles per year. Since 1964, our Idaho logging trucks have covered over 30 million

Digitized by Google

miles. During that period, our trucks have been involved in only three accidents involving members of the public. A total of six persons were injured, none of them seriously.

Our truck safety records for our operations in Minnesota are not as detailed as they are for our operations in Idaho. Although we can quote no numbers at this time, we believe that Minnesota's record compares with the excellent safety record we have achieved in Arkansas and Idaho. Summing up, in over 50 million miles of operations covering approximately 15 years, the Company has experienced only four personal injury accidents, none of them serious.

At the hearing you asked Mr. Kauffman whether Weyerhaeuser's truck safety record was similar to that of the rest of the industry. We have examined Mr. Kauffman's testimony and believe that our record, as described above, confirms his point that the forest products industry has achieved a far better safety record than the national average. We believe that our record is superior because we pay a great deal of attention to safety standards and requirements. Our drivers are well trained professionals, many of whom are independent contractors who depend on their ability to work each day that climate permits in order to earn a good living.

LEGISLATIVE POLICY

Potlatch Corporation supports the positions espoused by the National Forest Products Association and the American Paper Institute, as described in John Kauffman's testimony. As stated by Mr. Kauffman, Sections 7 and 8 of that bill pose substantial problems to us. We believe that imposition of S. 2970 as presently written would result in higher timber costs without an improvement in log trucking safety.

Since April, 1978, we have been in regular contact with Senator Percy and his staff regarding S. 2970. We have explained our concerns to him and have submitted a series of proposed amendments that we believe would satisfy many or all of our problems. To date, those amendments have not been accepted. We will submit them to your Committee upon request.

In the event that further information from us would be of value to the Committee, we will try to provide it to you. Any such request may be made to me or to Mr. Jeffrey P. Eves, Manager, Government Relations, Potlatch Corporation, Two Embarcadero Center, San Francisco, California 94120, telephone 415/981-5980.

We thank you for your time and consideration.

Cordially,

JOSEPH M. CHOMSKI.

WEYERHAEUSER CO.
Tacoma, Wash., October 23, 1978.

HON. HOWARD W. CANNON
Chairman, Committee on Commerce, Science and Transportation,
U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: I apologize for the delay in responding to your letter of September 20, requesting clarification of three points in my testimony on S. 2970. My travel schedule has kept me away from the office.

First, even though it is too late to alter the record, I would like to correct one statistic. I stated that in 1977 Weyerhaeuser's private truck fleets traveled 56 million miles and experienced 58 reportable accidents, or 1.04 accidents per million miles. This should have been 56 million miles with 38 accidents, for a ratio of .68 accidents per million miles.

In response to your first question, my testimony indicated that Section 8, if enacted, would have a tendency to circumvent labor-management relations. I believe this would be true notwithstanding the provisions of Section 12(b). The reason is because there is nothing in Section 12(b) which precludes the secretary from acting on the basis of an employee complaint filed prior to the employee having notified the employer of an alleged unsafe condition. The only thing Section 12(b) does is remove certain protection afforded to the employee in the event the employee fails to exhaust his employer remedies.

In response to the second part of your first question, I would like to offer two examples occurring in Washington and Oregon.

Example 1: There have been instances where drivers working Monday through Friday for an employer were found to be driving on the weekends for other

Digitized by Google

employers—"moonlighting". Their union took the position that what drivers did on the weekends was their own business, and that the five-day-a-week employer should not interfere. We feel this is clearly a violation of the Hours of Service Regulations under Part 395 of the Federal Motor Carrier Safety Regulations.

Example 2: A Weyerhaeuser log truck driver was found to be taking valium to help control high blood pressure. Weyerhaeuser believes that Section 391.41 (b)(12) of the Federal Motor Carrier Safety Regulations classifies this as a controlled substance, and that the driver was therefore subject to discharge. The union, however, resisted discharge of the driver for medical reasons, even though the employer was obligated under the regulations to do so.

In each case above, we are confidenet that the employer would prevail if the case were contested. However, first line supervisors often are intimidated by threats of reprisals from unions for enforcing the letter of DOT safety regulations.

You also asked for two or three examples of our company's truck safety program. Weyerhaeuser, as well as most companies with private truck fleets, has a vigorous safety program. For example, we spend over $250,000 annually on highway safety management. This does not include the nearly 20,000 management hours devoted to it. Our comprehensive safety program has reduced our accident ratio by 12% between 1975 and 1977, and has lead to a level of compliance that by all indications is very acceptable to the various DOT investigators with whom we deal regularly.

Even though our safety record is low when compared to other highway users, we are continually seeking ways to further improve our safety efforts. For example, the causes of all our accidents are fully examined, and the findings distributed through our intra-company safety magazine to all drivers. These are then discussed at our regular safety meetings, in order to better alert drivers to potential safety hazards.

Every facility using private trucks is personally audited at least twice a year by one of our safety supervisors. They not only audit equipment maintenance records, driver qualification files, drivers' logs, etc., but also the plants' management progress in complying with the Department of Transportation regulations. Weyerhaeuser, as a matter of policy, also applies interstate DOT regulations to its intrastate highway operations, which has enhanced the safety and efficiency of our fleet.

Question 2. I would think that the most effective measure that could be taken on the part of the federal and state agencies would be to *explicitly* forbid any individual, agent or group acting in their behalf to take any direct or indirect actions to obstruct or resist the enforcement of the Federal Motor Carrier Safety Regulations. In other words, perhaps taking away any hint of discretion on the part of the employer or the employee would lead to a higher degree of compliance. Perhaps monetary fines could be levied, or other penalties imposed on violators.

Question 3. Our source for general statistics relating to national trucking and the motoring publics' safety performance was obtained from the American Trucking Association's publication "American Trucking Trends 175", page 8. The statistics in my testimony were the same as those found on that page.

Again, I appreciate the opportunity to comment on S. 2970. If you need any additional information, please let me know.

Sincerely,

JOHN G. KAUFFMAN,
Vice President for Transportation.

The CHAIRMAN. The committee will now stand in recess, subject to the call of the Chair.

[Whereupon, at 1 p.m., the committee was recessed, subject to the call of the Chair.]

Digitized by Google

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

STATEMENT OF ROBERT O. ADERS ON BEHALF OF FOOD MARKETING INSTITUTE

I am Robert O. Aders, President of the Food Marketing Institute ("FMI"). FMI is a non-profit trade association whose almost 1,000 members include both food retailers and food wholesalers. Among those members are retailers and wholesalers of all sizes. The membership includes independent grocers, food chains, and voluntary and cooperative wholesalers. Many of FMI's members operate motor carrier fleet in private carriage, utilizing them in the transportation of goods from warehouse to store and, when possible, to "backhaul" products from supplier to warehouse. As truck fleet operators, a number of FMI member companies, be they retailers or wholesalers, will be directly affected by S. 2970 because that bill contemplates dramatic encroachment by the federal government upon truck operations in or affecting interstate commerce.

The subject of safety, and in this case truck safety, should not and must not be denigrated in any way and so it goes almost without saying that the safety purpose underlying S. 2970 is laudable indeed. However, despite its exemplary purpose, the "Truck Safety Act of 1978" offers what are at best speculative safety benefits while being the precursor of unfair, debilitating and possibly unconstitutional burdens on truck operators including FMI members operating private fleets. Therefore, FMI strongly opposes the bill.

S. 2970 is but one of a number of recent legislative and administrative iniatives[1] ostensibly designed to improve truck safety. Whether viewed individually and/or collectively, effectuation of these proposals, including S. 2970, will debilitate transportation productivity with nothing but conjecture to suggest any resulting safety benefit. In addition, S. 2970 contemplates open-ended and potentially devastating governmental regulation of truck operation management.

In introducing S. 2970, Senator Charles Percy expressed concern for the ever-increasing number of trucks on the highways:

"The Highway Users Foundation predicts that, during the next 15 years, the number of trucks on the roads will double. . . . Congress must act decisively to bring about an increase in truck safety today. Cong. Rec., Apr. 20, 1978, at pg. S. 6046."

If that prediction is true and if, as the Senator's remarks seem to suggest, more trucks mean more safety problems, it well may be federal legislative and administrative actions that exacerbate, if not create, the dilemma.

Effectuation of S. 3431[2] and/or the BMCS "Hours of Service" proposal[3] contemplate further constraints on individual driving time and will serve to dramatically increase the number of trucks on the highways. Thus, inadvertently, those proposals may, if effectuated, create a less safe highway environment as a logical result of increasing the number of vehicles on the road. In any event, S. 2970 presents "tough" new methods of enforcing federal safety regulations. In so doing, however, it would create operational havoc and would unfairly expose trucking companies and fleet operators to a morass or harassment, accusation, investigation, paperwork, cost increases, and invasion of privacy. Yet, even the sponsor of this bill seems to recognize that the main "problem" is related to insufficient manpower to more fully enforce the existing federal regulations:

". . . BMCS has only 128 inspectors for the over 4 million trucks on the road today. Comments Senator Percy, Cong. Rec., Apr. 20, 1978, at pg. S. 6045."

---

[1] S. 3431; BMCS Docket MC–70–1, Federal Motor Carrier Safety Regulations, Hours of Service.

[2] FMI has submitted its statement in opposition to S. 3431 under separate cover.

[3] FMI will submit comments in opposition to the Bureau of Motor Carrier Safety, U.S. Department of Transportation. Written comments are due by November 22, 1978. FMI will orally present its views at hearings to be conducted in Chicago, Ill.; Los Angeles, Calif.; and Washington, D.C.

Digitized by Google

Moreover, while BMCS now has criminal sanctions which can be imposed for safety violations, most violations cited by BMCS inspectors are apparently relatively minor, not warranting criminal prosecution, for in a universe of 40,000 defects in 1973, for that year and the next:

". . . Bureau investigators were able to develop only 1,027 cases warranting court or administrative action. Id."

This is not to suggest that the concerns for improving safety as expressed as the foundation for this bill are not viable. However, the provisions and sactions contemplated by S. 2970 will open a "Pandora's Box" of operational and administrative nightmares which will unequitably subject trucking companies and fleet operators to very serious and unwarranted burdens without a counter-balancing public benefit.

The "Truck Safety Act of 1978" is drafted so as to cover not only interstate commerce but transportation merely "affecting" interstate commerce. Thus, all but the most localized trucking would be subject to is effects. Despite the ostensible concern with "heavy" trucks, the bill applies to all commercial motor vehicles over 10,000 pounds GVW. Yet, many panel trucks and other "light" trucks exceed 10,000 pounds GVW. Thus, the jurisdictional impact of S. 2970 is not only extremely broad, but inexplicably transcends the expressed concern with "heavy" truck safety. This "scattergun" approach is not only unnecessary and inappropriate, but will create more federal government responsibility than can be effectively handled, thereby reinforcing and compounding the "enforcement" problems which, as discused above, underlie the problem this bill is ostensibly designed to meet.

S. 2970 contemplates providing the Secretary of Transportation with almost limitless power to prescribe regulations concerning vehicle maintenance, utilization of drivers, standards for driver health and driver working conditions, and operating practices, to the point of "(assuring), to the extent technology permits, that no employee will suffer injury or material impairment of health or functional capacity due to his exposure to such working conditions during his working life." Such unbridled authority bestows virtually infinite governmental license to intrude upon the management functions of truck operators whether they be in the "trucking business" as such or whether they operate trucks incidental to their other primary business such as is the case with food marketers. Even putting aside the inconsistency of such unbridled government power to traditional notions of capitalism as our economic system, S. 2970 creates an extreme potential for administrative abuse of discretion.

The bill provides federal inspection and investigation authority without notice and without the need to show probable cause that a significant violation exists. It allows and even would encourage employees to report employers should violations allegedly exist. The name of the "reporting" employee would be kept confidential but, should his identity nevertheless become known, the employer would be prevented from discharging him. While FMI does not sanction violation of federal safety regulations, these provisions will serve to grant disgruntled employees a mechanism for harassing and "getting even" with an employer by making false or trivial reports. There is no penalty for an employee who makes a false report, a report under a false name, or a frivolous report, yet each report will subject the employer to myriad "proceedings" requiring the employer to conduct his own investigation, respond, and otherwise "defend" himself, thereby taking time away from operating his business and incurring financial and administrative burdens despite the falsity or frivolity of a particular "charge". Moreover, an employee about to be discharged for incompetence or other viable reasons could preclude his discharge by making a "safety" report and then contending that any subsequent firing was retribution for his making the report, thereby preserving his undeserved continuation in employment.

The record-keeping requirements contemplated are also open-ended and would add to the already undue and perhaps uncontrollable morass of "paper" record-keeping and reporting requirements imposed on business by the federal government. Even the government is earnestly searching for and incorporating ways to reduce record-keeping and reporting requirements wherever possible, but S. 2970 would certainly compound the problem. Moreover, the records required would, in large measure, relate to health and other matters within the privacy of the individual driver, but the bill provides no "privacy" protection. Through freedom of information, not only could a businessman obtain confidential material concerning his competitors, but the private matters of individual persons would easily become a matter of public record.

Digitized by Google

There are numerous aspects and ramifications of S. 2970 which are unfortunate and deserve comment. However, in the interest of brevity, suffice it to say that S. 2970 would create far more problems and difficulties than it would cure. It almost imposes the federal government as a business manager on the one hand, and a "super-union" on the other. While we again stress that we recognize the vital importance of truck safety, and while we support those provisions of the bill calling for study and research in the field, the bill collectively portends unfair and unnecessary regulation without offsetting safety benefit.

STATEMENT OF WILLIAM C. MCCAMANT, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS

Mr. Chairman, my name is William C. McCamant, Executive Vice President of the National Association of Wholesaler-Distributors (NAW). NAW is a federation of 109 national commodity line associations composed of over 40,000 merchant wholesaler-distributor establishments located throughout the 50 states. Wholesaler-distributors are responsible for a large share of our nation's economic activity. Their sales are estimated by the Commerce Department to have totalled $532 billion in 1977 and may reach $700 billion in 1978. The firms represented by NAW account for approximately sixty percent of total industry sales and sixty percent of the 3.5 million individuals employed in the wholesale trade. As is detailed in the attachment to this testimony, our industry is preponderantly composed of small-to-medium sized businesses, is highly competitive, and operates on a very slim profit margin—averaging three percent before taxes.

Because of what we believe is a questionable data base foundation from which important assumptions have been drawn, we cannot support S. 2970.

As an example of the slanted statistics cited as the reason for the drafting of this legislation, we note Senator Percy, in introducing S. 2970 on April 20, 1978, stated: "Of the 45,000 highway fatalities in 1975, over 20 percent were caused by trucks and busses." We question whether or not trucks and busses *caused* 20 percent of the 45,000 cited highway fatalities or whether they were merely involved in 20 percent of the accidents which resulted in a fatality. Obviously, there is a major difference between the two concepts. The Senator continued: "Heavy trucks alone were responsible for 7.8 percent of the fatal accidents. In 1976, this figure rose to 8.9 percent, despite the fact that heavy trucks accounted for less than 1 percent of the vehicles on the road. While all highway fatalities increased by only 1.2 percent between 1975 and 1976, those involving heavy trucks soared 16.8 percent." Later on in his statement, the Senator said: "Fatal trucking accidents increased over 18 percent between 1975 and 1976." It is obvious the figures are conflicting—and both cannot be true. Additionally while claiming heavy trucks account for less than 1 percent of vehicles on the road, the Senator fails to note that the 1 percent has a tremendously higher exposure to the possibility of accidents than does the average family car. On the average, the truck is on the road much longer and covers a far greater distance yearly than the average passenger vehicle. Such statements regarding the involvement of trucks and the percentage of accidents versus the number of vehicles on the road should be carefully factored to take into account the amount of time and mileage such vehicles accumulate compared to the average automobile.

Another example of what we believe is the same type of slanting of statistics is contained in the Senator's statement: "Intrastate trucking accidents are an even more serious problem. In the State of Illinois alone, in 1976 there were over 92,000 truck accidents which killed 527 people and injured 18,885 more." Once again the Senator fails to indicate whether or not the accidents referred to in his statistics were caused by the trucks or by the other vehicles involved.

We agree statistics can be the tool for becoming aware of an obvious need to act in a particular legislative area. We do object to statistics being used that may not accurately reflect a situation and are biased through the inadequacies of determining causitive factors in only reporting there was an accident. Unfortunately, the Senator relied on Bureau of Motor Carrier Safety figures which, because of reporting procedures and follow-up, cannot always determine whether the truck or its driver was at fault in the accident or whether the other vehicle or driver was at fault.

35-692 O - 79 - 12

Digitized by Google

In introducing his case, Senator Percy said: "For instance, in 1973, the latest year for which data is available, BMCS detected over 40,000 safety violations during nation-wide road checks of 22,644 vehicles and drivers. Yet, during all of 1973 and 1974, Bureau investigators were able to develop only 1,027 cases warranting court or administrative action. The majority of these cases were not accepted by the Department of Justice for criminal prosecution." Reading that statement without carefully thinking about it would tend to lead one to believe this is a horrible situation. Fortunately, asking a few basic questions of the statement calls its entire content into question. For instance, how is it if there were some 40,000 safety violations found by BMCS, only 1,027 cases were devloped that warranted either court or administrative action? At the very least, if the bureau detected what it believed to be a safety violation during those road checks, why was it unable to develop more cases for administrative action? Why is it the Department of Justice did not accept the majority of those cases for criminal prosecution? Could it have been that the bureau's evidence was insufficient to make a case? Thes are the types of questions which unfortunately are not answered in the Senator's statement.

The above argument regarding the supposedly low number of cases accepted by the Department of Justice for criminal prosecution is used by the Senator as the reason to expand the civil forfeiture authority of the bureau for all types of BMCS regulation violations. This, in fact, is no reason to increase the civil forfeiture authority of the agency, but is a case for just the reverse of what the Senator is suggesting. It is implied by the Senator's statement that if civil forfeiture authority expansion is given to the BMCS, more of the 40,000 safety violations BMCS claimed it detected would be the subject of civil forfeiture to the bureau. We ask in all honesty where would there be either increased protection for the general public or tighter enforcement on those driving trucks? If the Department of Justice refused those violations, it stands to reason there should not be blanket authority given to a bureau to force civil penalties for occurrences the Justice Department obviously thought were not acceptable for criminal prosecution by the Department.

Even though S. 2970 does contain an appeals process through the National Transportation Safety Board and through the U.S. Court of Appeals, it is an extremely long, drawn out process—one which our small business wholesaler members would find financially prohibitive to enter into, which would lead, in most cases, to their simply paying the civil penalty levied by the agency. Even when they know they are right, attempting to go through the expensive and time consuming process of an appeal to the National Transportation Safety Board and then to the Court of Appeals is beyond the resources of many small businesses. This kind of authority handed to a federal agency, we believe, diminishes our industry's right to "due process" and would expose wholesaler-distributors to a levy of civil forfeitures by BMCS for those supposed 40,000 safety violations the agency claims it detected but which the Justice Department refused to prosecute.

Civil forfeiture authority of the magnitude proposed in S. 2970, even with the established appeals process, in our opinion tends to foster less carefully arrived at judgments in any agency's dealings with the industry it regulates. The agency then becomes, as a matter of practical, real-world experience, both "judge and jury." We strongly oppose this unrealistic expansion of civil forfeiture authority to the Bureau of Motor Carrier Safety.

NAW also strongly opposes the attempt of S. 2970, through Section 13, to increase the application of BMCS regulations to intrastate commerce. A good portion of delivery trucks used in the wholesale distribution industry falls within the "10,000 pound GVW and under" exemption and many others fall within numerous commercial zone exemptions. We do not believe wholesale distribution firms operating in intrastate commerce (i.e., within a state or within the boundaries of a commercial zone exemption), should face the burdens currently imposed on the interstate trucking industry. The complicated driver logs and other BMCS requirements serve a useful function in over-the-road interstate truicking, but we believe no case has been made for the need to extend this type of over-all, comprehensive, burdensome, regulatory scheme on delivery trucks operating in intrastate commerce.

Section 13(c) of S. 2970 would authorize a $100 million a year "raid" on the Highway Trust Fund. The trust fund comes from taxes paid by the general public into a fund whose primary purpose has always been the up-grading and

Digitized by Google

rehabilitation of the nation's highway system, with a portion used for state and community safety programs. The fund has never had as its purpose the funding of Bureau of Motor Carrier Safety regulations to regulate trucking in either interstate or intrastate commerce. In fact, such a major encroachment on the trust fund would actually reduce safety benefits to the public at a time when we should not be reducing our interest in the nation's highways and would allow for further deterioration of our roads and bridges. The Trust fund's basic purpose is for construction and maintenance, not for handing out monies to the states to encourage them to adopt and enforce federal agency regulations on trucks. We also do not find worthwhile the "OSHAizing" of Bureau of Motor Carrier Safety functions. The bill authorizes the Secretary to conduct on-the-job inspections and investigations. The bureau already has authority to do this and, in fact, currently does so. Giving BMCS OSHA-type authority over other aspects of a wholesale distribution firm for which it has absolutely no expertise is, we believe, uncalled for. Our member firms are already inspected by OSHA and by the BMCS when involved in interstate commerce. We believe OSHA-type authority for the BMCS would have our members (some of whom engage in interstate commerce which brings them under the bureau's regulations) facing a conflicting set of inspectors with varying qualifications. These inspectors would be attempting to enforce regulations which were not, in fact, drafted to even deal with the wholesale distribution industry's use of delivery trucks.

We believe instead of the proposals contained in S. 2970, attempts should be made to increase the ability of the Bureau of Motor Carrier Safety to enforce its existing regulations by simply increasing the number of its relatively few (128) inspectors. Until the agency can adequately monitor what is currently occurring in interstate commerce, there should be no thought of attempting to begin expansion of the authority with which the agency would be unable to cope by dangling the "Federal dollar carrot" before the states. The lack of bureau manpower would prevent the agency from even beginning to adequately train inspectors to enforce bureau regulations.

Mr. Chairman, we have enumerated only a few of our objections to S. 2970. Without being burdensome, we would indicate opposition to: the lack of a definition of an "employee" in Section 4 of the bill; Subsection 7(b) which requires employers through agency rulemaking to implement safety programs "to the extent technology permits" (which recent experience with the National Highway Traffic Safety Administration Brake Standard 121 has indicated is technically permissible but in real world operation has been unreliable; Subsection 8(c) which would require the Secretary to conduct an investigation upon the complaint of any employee, whether or not the complaint is based on fact; to employee suits allowed in Section 12 which do not materially add to any improved safety compliance; and Section 14 which requires DOT to submit a yearly safety report to Congress which would be meaningless if it fosters statistics similar to those used initially by Senator Percy from the bureau as the reasons for the necessity for S. 2970.

Mr. Chairman, we would strongly urge that in the pursuit of highway safety, rather than move in the directions outlined in S. 2970, the Federal government could have a far more positive impact on highway safety through concentration by the Bureau of Motor Carrier Safety on enforcement of current BMCS regulations and from Congressional help in giving the bureau more inspectors to increase enforcement of the regulations already in existence.

Mr. Chairman, in short, we can find no substantive *need* for this legislation, and we urge its *rejection* by your committee. We appreciate this opportunity to present the position of the wholesale distribution industry.

Appendix A—Structure and Economic Significance of the Wholesale Distribution Industry

The wholesale distribution industry, in contrast to the manufacturing sector of the economy, continues to be dominated by small-to-medium size closely-held, family-owned businesses. Of the 202,000 merchant wholesaler-distributor corporations filing tax returns in 1973, 99 percent had assets of less than $10 million. These smaller firms accounted for about 65 percent of the industry's sales volume. In contrast, in the manufacturing sector, approximately 2 percent of the firms controlled about 88 percent of the assets and accounted for approximately 80 percent of sales.

Digitized by Google

The wholesale distribution industry provids year-round employment for 3.5 million individuals. In 1977, average hourly earnings ($6.78) in wholesale trade exceeded those for all private industry ($5.14), while average weekly earnings ($212) were 15 percent above those for all private industry ($185). In short, the wholesale distribution industry provides dependable, well-paying jobs throughout the U.S. economy.

Industry sales in 1977 totalled $432 billion and are expected to reach approximately $665 billion in constant dollars in 1982, according to Commerce Department estimates.

Merchant wholesaler-distributors perform an essential economic function. They make goods and commodities of every description available at the place of need, at the time of need. Wholesaler-distributors purchase goods from producers, inventory these goods, break bulk, sell, deliver, and extend credit to retailers and industrial, commercial, institutional, governmental and contractor business users.

Wholesaler-distributors are essential to the efficient satisfaction of consumer and business needs. Further, by the market coverage which they offer smaller suppliers and the support which they provide to their customers, wholesaler-distributors preserve and enhance competition, the critical safeguard of our economic system. According to a recent NAW survey, the typical wholesaler-distributor establishes the market conection between 133 manufacturers and 533 business customers. Many of these manufacturers are themselves small businessmen who must rely on wholesaler-distributors to establish, maintain, and nurture markets for their products. The majority of customers are small businessmen also, who look to the merchant wholesaler-distributor to provide merchandise availability, credit, and other critical services.

STATEMENT OF ROBERT MILLER

Good morning, I am Robert Miller, a Teamster and member of PROD Inc., and former truck driver for Associated Truck Lines of Grand Rapids, Mich. I wish to thank the members and staff of this sub-committee for giving me, as a member of PROD, this opportunity to testify on the subject of truck safety.

In my testimony here today I will take you through a series of events, first with the use of the Teamster Master Freight Contract and the lack of enforcement of the safety provisions in Article 16, to force drivers to drive unsafe vehicles and thereby using it as a means of ridding themselves of employees who insist and urge others to insist on safe vehicles to drive on our nation's highways.

I will cover my own discharge for refusing to drive a tractor with only 12'' clearance between the steering wheel and seat back.

Also how my union representatives did very little to get my job back. How charges filed with the NLRB and OSHA have done nothing to correct the use of safety violations and refusals to drive this equipment as a tool to discipline and discharge safety conscious employees who insist on their rights.

I'll also cover events up to now covering my attempts to find a job in teamster union contract employers.

On July 22, 1977, I was called to work and arrived at the terminal in Coldwater, Mich. I was dispatched on tractor No. 1366, a 1972 Louisville model Ford, to go to Ligoneir, Ind. After doing the necessary paperwork, I went to the tractor ready line and put my personal belongings in the tractor. I then went on to inspect it for defects. Finding no visual defects on the exterior of the tractor, I entered and sat in the seat, and immediately noticed the seat was much too close to the steering wheel. I attempted several times to move the seat back on the slider and soon realized that it was back as far as the slider would allow. I then went back to the dispatch office and told the dispatcher of the problem and asked what I should do. He said that I should take the tractor to the garage and see if anything could be done. I returned to the tractor and squeezed behind the wheel and drove the 100' to the garage and told them of the problem. The shop supervisor came out and we together attempted to slide the seat to the rear with no results. He then stated that he doubted if he could drive it as our physical size was much the same. We then measured the clearance from the steering wheel to the seat back and found it to be 12''. We then went back to the dispatcher and the shop supervisor told him of the lack of clearance. The dispatcher asked him if there was any defects in the equipment. He said there was not. The dispatcher then

Digitized by Google

called Central Dispatch in Grand Rapids and told them that I did not want to drive the tractor because there wasn't enough clearance behind the steering wheel and that I felt it would be unsafe to drive on the road. They asked if the shop had found any defects and were told no. I then advised them that I felt it unsafe for not only myself but for others on the road because I felt I could not properly control the vehicle with the steering wheel protruding into my stomach so far that it was hard to turn the wheel without inhaling deeply. My fears were that in an emergency stop with all my weight pushing forward, I would lose all steering control. Central Dispatch then ordered me to drive this vehicle. Not wishing to lose my job, I hooked up to the trailer I was to pull and departed from the terminal. Traveling only 100 yards I became aware of another problem I was to contend with if driving this vehicle. A rough set of railroad tracks and a very bumpy road caused the protruding steering wheel to quickly create pain in my stomach area.

Believing that as the Teamster Business Agent had always said, "You must drive a truck that you feel is unsafe. Don't refuse to drive it but go to the telephone and call dispatch and ask for another vehicle that you can drive safely, and if you are then fired the union will surely get your job back." So I did drive this tractor about a half-mile and knowing that there were 14 other tractors on the ready line, I called Central Dispatch and asked for another tractor. The dispatcher asked if there were any defects in the tractor. I said the steering wheel and seat were too close and that for reasons of health and safety I could drive this tractor no further. He told me then to either drive it or be fired. I stated again that due to safety laws and Article 16 of the contract I could not drive that tractor any further. He then said to wait there. Someone would be out. About 30 minutes later the terminal manager came out with another driver who took the tractor and I was driven back to the terminal by the manager. During the trip back I asked the terminal manager if this was the way they got rid of their PROD members and shrugging he stated "Just one of many ways." About one month after my discharge, due to some pictures taken on the day of my discharge and shortly after, it was discovered that the seat in tractor No. 1398 could have been moved back 2" simply by removing four bolts and moving the slider back and replacing the bolts in holes there for that purpose. I filed a grievance after my discharge and on 7-27-77 a local level hearing was held at the terminal. The company stated that I was discharged for not following Article 16 of the NMFA. My business agent said very little on my behalf. The company representatives stated that they would have tractor 1398 dispatched into Grand Rapids and inspect it themselves before making a decision. On July 30, 1977 I received a letter by certified mail from Associated advising that several persons, all management employees had inspected the tractor and found no defects and that I was discharged because I did not follow the procedures outlined in Article 16 of the NMFA.

My next step in the grievance procedure was the Joint State Committee, a panel made up of 3 employer representatives and 3 union representatives even though about 6 or 7 of each actually hear the grievance allowing them to remain anonymous. My hearing was held 8-12-77. My business agent and Local Secretary Treasurer were both present as both normally sit on the panel although they are excluded when a local member is involved. After assuring me that he had done much investigating concerning my grievance my business agent proceeded to read my grievance to the panel, state that I should be put back to work and sat down. Thank God, at that time I was asked if I had anything to add and I did. I told the panel that with my 14 years of accident free driving that I felt my experience should mean something in deciding the ability to safely operate a vehicle under other than normal conditions. I also cited the results of a 1955 study of "The Application Of Human Body Size Data To Vehicular Design" done at the Harvard School of Public Health in Boston. This was the last available study of this kind and suggested minimum clearances of 15" between the Steering Wheel and seat back with the slider in the midway position for any U.S. Government Vehicles. I also questioned the position of the telescoping steering wheel on this model, many of which had been welded because through wear they could no longer be held in a certain position. They asked if I saw the weld and I stated no but that the wheel could not be moved, as it was supposed to when manufactured. I also questioned the seat itself as wear was known to have made them tilt forward. I also brought up the fact that Associated was aware of this problem as early as Nov. 4, 1976, and more

Digitized by Google

recently as discharges had already taken place in the ATL system for lack of clearance in similar model vehicles. I also suggested that being required as an over the road interstate truck driver to carry and be familiar with the Department of Transportation hand book and believing that Part 396.4 (Unsafe Operations Forbidden) would protect me from reprisals above all else. Nothing I said made any difference as the panel upheld the discharge.

In this decision it mentioned that I drove this and other similar tractors in the past. It did not say that in several of the Louisville model Ford tractors there was as much as 6'' more clearance than in the tractor in question #1366. The decision did not tell of the circumstances of the only other time I had driven tractor 1366 in the 13 months I worked for Associated. In Nov. of 1976 I was forced to drive this tractor under the same conditions from Ft. Wayne, Ind. to Grand Rapids, Mich. I drove it under protest only after the dispatcher at Ft. Wayne noted on my travel order that I felt the vehicle was unsafe to drive. The trip totaling 64 miles took over 4 hours due to the problems I encountered. I had much trouble steering on the mostly 2 lane roads and was forced to stop many times enroute because of abdominal pains caused by the steering wheel protruding into my stomach.

The decision of the grievance panel was not unexpected as many of them had set on panels and heard my grievances against the local unions lack of representation, the practice of relieving drivers from duty at terminals adding to the allowable driving hours and to driver fatigue. The decision was as much a warning to others not to buck the Teamster system. PROD was mentioned at almost every grievance hearing I attended because of the PROD patches I wore there and at work.

I know now that the part of the contract dealing with safety is being used as a weapon against all who dare to protest the unsafe and unhealthy conditions caused by some equipment. Equipment operated by million dollar trucking firms who can't find a dollar for maintenance. My discharge was just the beginning for my family and I. We have since found that no state or federal laws cover the interior cab dimensions in tractor. I would never, nor I'm sure would any member of this committee buy an auto that allowed no clearance between their stomach and the steering wheel and yet everyday drivers all over this great country are forced into undersized tractors for the sake of a bigger load, and even today some genius is experimenting with a vehicle to get the driver completely out of the way in the CAB UNDER Trailer. So they increase the payload and decrease everything else including the drivers chance of survival.

When hired by Associated Truck Lines, I was given a booklet that made me feel good to read through, two paragraphs convinced me that this company was genuinely interested in driver safety. After my discharge I reread them and I would like to reread them again. Para. 20 Page 6 regardless of all other requirements, driver safely take no chances safety on the highway or street must be given precedence over every other consideration. and Para. 45 Page 15 Accidents do not happen, they are caused by the actions of the driver of one or more vehicles. You as a driver, can prevent accidents by developing and following proper defensive driving procedures. We have set forth some of the practices to be followed to prevent accidents, but no manual could ever cover all the individual situations which might develop throughout a drivers operation of his equipment. We expect a driver to exert all possible precautions to eliminate the possibility of accidents.

I can testify today sir, they didn't mean a word of it.

Believing that I had been discriminated against because of my PROD activity and insisting on contract compliance by both the company and union, I then filed charges with the NLRB and hoping that their investigation would show the discrimination that I'm sure was there. The NLRB did not however issue a complaint as they found insufficient evidence of violation. The only positive results I have seen since my discharge came from the claims referee judge of the Michigan Employment Security Commission who ruled that as I had followed article 16 of the NMFA on Nov. 4, 1976 by driving tractor 1366 and writing it up at the end of that trip for lack of clearance that I had done my part and inso far as the company had not corrected the situation by July 1977, that I was not guilty of an act of misconduct and was eligible for unemployment compensation.

In Nov. 1977 I sent a letter to President Carter concerning Truck Safety and my discharge, I was soon notified by OSHA that I should file charges also with

Digitized by Google

them, which I immediately did only to receive a similar answer as that from the NLRB that there was not enough evidence of a violation, only this time it was based on the fact that there was no evidence to proof I would have been killed if I had taken that tractor out on the highway. It seems an awful waste of human life to prove such a thing. What does it take, an incident similar to the massacre in Cleveland a few years ago to find out how many cars it takes to stop a loaded tractor trailer?

Since my discharge over one year ago I have felt the rath of the powerful and corrupt Teamsters Union even more. The NLRB read at this time investigating charges of blacklisting which came to light during another NLRB investigation when a recently fired secretary of Teamster Local 164 presented testimony that people in Local 164 had attempted to prevent me from finding work in a Teamster workplace. In Jan. of 1978 I was sent a withdrawal card from Teamster Local 164 even though I had paid my dues and wished to remain in good standing so that I could attend union meetings at the Local. I was able to find a job at B&L Motor Freight in Newark, Ohio in late Dec. 77 but before my 30 day probation period was complete and after Local 164 received my transfer card from the company I was fired.

I am now working in a different city in Ohio because I can't ask my family to sacrifice anymore. I'm not beaten, only resting but there are many around the country who have been through more and lost more. Safety must not be the loophole to be used in the discharge of those who fight for justice. The government can no longer look to the Teamster contracts to enforce safety on the highway. Truck drivers should no longer be hired killers against their will. There must be laws that cover all possible safety violations and most of all the driver himself must not face reprisals for bringing these violations to light. We must have these laws to cover such things as interior cab dimensions to allow a person ample room to operate safely any vehicle on our streets and highways especially the 40 ton tractor trailer units capable of destroying many lives. We must not allow the volume of freight to overtake the importance of human life any longer. I thank you again for the opportunity to be here today before this subcommittee.

STATEMENT OF K. S. ROLSTON, EXECUTIVE VICE PRESIDENT OF THE AMERICAN PULPWOOD ASSOCIATION

Mr. Chairman, I am K. S. Rolston, Executive Vice President of the American Pulpwood Association, a national trade association of pulpwood producers, dealers, consumers, and others directly concerned with the growing and harvesting pulpwood—the principle raw material used in the manufacture of pulp, paper, paperboard, and other products.

Our interest in this legislation, or any legislation that affects truck transportation, lies in the fact that all the wood used for making pulp and paper is transported by truck at some time between harvesting the tree and the pulping process. Some pulpwood is transported by truck only—all the way from the stump to the mill. In other cases it may be transported by truck from a landing to a rail head or large landing for offloading for rail or water movement. Also, pulpwood chips produced as residues from other forest products facilities are often trucked to pulp and paper mills. In virtually all cases, trucks are the vital link in the transporation system to move pulpwood to the mills. Most of the trucks used for pulpwood and pulpwood chip handling in eastern United States are owned by small independent operators whose trucks are a substantial part of their business investment.

Trucks used to transport pulpwood range in size from comparatively small trucks with a capacity of about 20,000 pounds up to large semitrailers. Trucks are essential to the pulpwood logging industry.

Members of the American Pulpwood Association are strong safety advocates. The Association has worked to develop safety standards under the auspices of the American National Standards Institute and on two occasions has served as secretariat. Because of our interest in safety we support the concept of the sponsors of this legislation for safety on our highways. However we cannot support this legislation as it is written because we feel that it is not in the best interest of the pulpwood industry, the trucking industry, or consumer.

Digitized by Google

Section 7 requires the Secretary to establish, maintain and monitor safety rules and regulations which could then be enforced by individual states providing the state agree to do so and submitted a satisfactory plan to the Department of Transportation.

We strongly question the advisability of having all states operate under the same set of regulations established by the Secretary of Transporation. Roads and road conditions as well as truck use vary from state to state and we believe that each state has developed regulations best suited for its intrastate truck traffic. If there are specific problems that need attention, these should be dealt with on an individual state basis. Those states in which there are no specific problems should not be penalized by having to conform to regulations written to apply to the entire country.

We are greatly concerned by the recordkeeping provisions of Section 8. The extensive recordkeeping and reporting required by employers, owners, leasees, and states would be a severe burden and would be compounded many times by including all trucks down to a 10,000 pound gross weight, expanding intrastate regulations into new areas such as physical examinations, regulating working hours, and other working conditions. This would greatly increase the cost of doing businesss which would ultimately have to be paid for by the consumer and would not, in our opinion, have any appreciable effect on highway safety. We agree with President Carter's recent statement that "reducing unnecessary regulation by government of the private business sector is . . . very important".

The cost of recordkeeping and reporting plus the additional cost to the state for operation and enforcement, and expenditure of $100 million in federal funds, can hardly be justified at a time when it is imperative that we reduce government spending.

In summary, we feel that this legislation with its federal intrusion into intrastate trucking and burdensome recordkeeping requirements, all resulting in heavy expenditures by pulpwood truckers, state governments, and the federal government would add to the burden of our industry without providing any real assurance of increasing safety on our highways.

THE JOHNS HOPKINS UNIVERSITY,
SCHOOL OF HYGIENE AND PUBLIC HEALTH,
Baltimore, Md., September 1, 1978.

Senator HOWARD CANNON,
Russell Senate Office Building
Washington, D.C.

DEAR SENATOR CANNON: I will be unable to testify before your committee with regard to S2970, and ask that this letter and enclosures be added to the public record. I strongly endorse the bill, which would afford greater protection to truck drivers as well as to the rest of the driving public.

For many years I have been deeply concerned by the lack of regulatory protection afforded professional drivers. Nationally, 30 percent of all occupational injury deaths reported through Workman's Compensation Claims involve highway crashes. The problem especially involves drivers of heavy trucks. As the enclosures indicate, heavy trucks have twice as many occupants deaths per 10,000 vehicles as other vehicles. Even more important, as regards this bill, is the fact that truck drivers have an injury death rate per 10,000 workers that is many times higher than the death rate for other occupations.

The safety and health protection offered by S2970 is long overdue. I hope the committee will give favorable consideration to the bill.

Sincerely,

SUSAN P. BAKER, M.P.H.,
Associate Professor.

Digitized by Google

Professional Drivers: Protection Needed For a High-Risk Occupation

SUSAN P. BAKER, MPH, JACKSON WONG, MSME, AND ROBERT D. BARON

Abstract: "On the job" motor vehicle deaths number more than 4,000 annually in the U.S. and comprise nearly one-third of all work-related deaths. Yet the Department of Labor has set no standards relating to on-the-road safety of the millions of workers whose jobs entail large amounts of driving, and Department of Transportation standards affecting occupational safety cover only drivers in interstate commerce.

Drivers of some commercial vehicles, such as heavy trucks, are at special risk of injury because trucks have usually been exempted for many years from federal motor vehicle safety standards—such as standards for brakes and seatbelts—designed to prevent crashes or protect occupants in crashes.

Observations based on a series of 150 fatal crashes involving tractor trailers illustrate the need for better protection of this large population of high-risk workers. Clarification of responsibility within the various federal agencies and application of available knowledge and technology are essential. (Am. J. Public Health 66:649–654, 1976)

The U.S. Department of Labor's Occupational Safety and Health Act (OSHA) requires employers to provide places of employment free from recognized hazards that are "likely to cause death or serious physical harm."[1] The purpose of this paper is to call attention to the special occupational hazards of professional drivers—especially truck drivers—and to the fact that no federal safety standards pertain specifically to occupational on-the-road safety of large groups of people who drive on the job.

The U.S. Bureau of the Census estimates that in 1974 there were about 3 million transport equipment operatives, including 1.8 million truck drivers (Table 1). In addition, millions of other employees have jobs which involve substantial amounts of driving: repairmen, salesmen, police, telephone linemen, etc. In employment categories such as these, however, it is not known how many of the employees actually drive on the job.

Compared with other drivers, professional drivers are at extra risk of death or injury on the highway, partly because they drive more miles. One study, based on data from 24 states, found that drivers of large trucks, taxis, and buses averaged about 52,000 miles annually, compared with an average of 8,000 miles for drivers not driving on the job.[2] Furthermore, analysis of turnpike data shows that heavy trucks have about twice as many crashes as automobiles, per vehicle mile of travel.[3] Many vehicles—ranging from police motorcycles to tractor trailers—pose special risks because of their lack of protective capability.

The exact number of job-related highway deaths and injuries is not known. Some data are available from workers' compensation sources, for example, in Maryland 16 per cent of the death claims awarded in fiscal year 1974 were to truckers.[4] In California, truckers accounted for 7 per cent of the work fatalities in 1973 compared to 1 per cent of all employment covered by the Workers' Compensation Act, four-fifths of the deaths involved motor vehicles on the highway.[5] For the United States, the National Safety Council estimates

TABLE 1—Number of Persons Employed as Transport Equipment Operatives—U.S., 1974*

Truck drivers	1,752,000
Bus drivers	285,000
Delivery and route workers	505,000
Taxicab drivers and chauffeurs	174,000
Others	159,000
Total	2,945,000

*Compiled for the Bureau of Labor Statistics by the Bureau of the Census. Persons employed as "tank fill and tow motor operatives" (247,000) excluded because of off-road nature of much of the work.

Address reprint requests to Susan P. Baker, MPH, 111 Penn Street, Baltimore, MD 21201. Mrs. Baker is Associate Professor of Public Health Administration, The Johns Hopkins University, School of Hygiene and Public Health. Mr. Wong is Senior Automotive Engineer, Insurance Institute for Highway Safety, and Mr. Baron is Director of Industrial Services and Training, Safety Council of Maryland. This paper, presented at the 103rd Annual Meeting of the American Public Health Association, Chicago, November 1975, was submitted to the Journal December 17, 1975 and accepted for publication March 22, 1976.

Digitized by Google

that in 1974 about 4,100 (31 per cent) of the 13,400 work-related deaths involved motor vehicles.[6]

Most of these deaths result from crashes on public roads. Some OSHA standards protect operators of cranes, earth-movers, tractors, and other non-highway motor vehicles, but the Department of Labor has not set standards pertaining to safety on public roads of truck drivers and other professional drivers.

Within the Department of Transportation (DOT), the Bureau of Motor Carrier Safety (BMCS) has the authority to set safety regulations pertaining to motor carriers engaged in interstate commerce or the transport of hazardous materials. The regulations include such areas as driver qualifications, hours of service, inspection and maintenance of vehicles, loading practices, seat belt use, and emergency signals. There are no comparable federal regulations applicable to on-the-road job safety of many other professional drivers—such as truckdrivers employed by companies engaging in purely intrastate commerce, and many salesmen, local deliverymen, and taxicab drivers.

Also within the DOT is the National Highway Traffic Safety Administration (NHTSA), which sets safety standards for road vehicles manufactured for sale in the U.S. These standards are not established for purposes of occupational safety and, in fact, often are delayed, weakened, or not applied in the case of vehicles such as vans, trucks, tractor trailers, and buses. In illustration, effective dates for federal standards for door latches and seat belt installation were set many years later for trucks than for passenger cars, and standards to minimize roof crush, side intrusion, and damage to occupants from impact with interior structures have been set only for passenger cars (Table 2).

This paper will discuss certain measures that could improve protection of professional drivers against injury on the highway. Most examples are drawn from a series of 150 fatal crashes involving tractor trailers, reported elsewhere in greater detail.[7,8] The crashes occurred in Maryland during the years 1970–73, and were studied retrospectively using records from police, medical examiner, and motor vehicle agencies. With few exceptions, the problems and strategies described are relevant to smaller motor vehicles.

The discussion will address: (1) pre-crash, (2) crash, and (3) post-crash phases of injury reduction—i.e., factors that would reduce: (1) the likelihood of crashes, (2) the occurrence or severity of injury, and (3) the severity of the consequences.[9,10] Table 3 lists a variety of countermeasures relevant to the protection of professional drivers. Some examples have been selected from the table for further discussion.

PRE-CRASH PHASE—Reducing the Likelihood of Crashes

Procedures that would ensure timely detection and correction of mechanical defects and likely failure points are needed. Fifteen of the fatal tractor trailer crashes involved brake or tire failures or mechanical breakdowns. The BMCS conducts spot checks of trucks (including tractor-trailers) under its jurisdiction; in 1972, serious mechanical defects were found in 35 per cent of the trucks selected for roadside inspection.[11] Although the trucks so selected may be especially likely to have defects and thus not be a representative sample, the finding identifies one type of hazard facing drivers whose employers fail to provide safe equipment.

Well-designed equipment is also essential. Recently,

TABLE 2—Examples of Federal Motor Vehicle Safety Standards Delayed or Not Applied to Trucks

FMVSS #	Description	Effective Dates	
		Passenger Cars	Trucks ≥ 10,000 lb.
105	Hydraulic Service Brake, Emergency Brake, Parking Brake Systems	1-1-68	—
109, 119	New Pneumatic Tires (109-passenger cars; 119-other vehicles)	1-1-68	3-1-75
110	Tire Selection and Rims	4-1-68	—
111	Rearview Mirrors	1-1-68	2-12-76
117	Retreaded Pneumatic Tires	1-1-72	—
201	Occupant Protection in Interior Impact	1-1-68	—
202	Head Restraints	1-1-69	—
203	Impact Protection for the Driver from the Steering Control System	1-1-68	—
204	Steering Control Rearward Displacement	1-1-68	—
206	Door Locks and Door Retention Components	1-1-68	1-1-72
207	Seating Systems	1-1-68	1-1-72
208	Occupant Crash Protection (Seat Belts)	1-1-68	7-1-72
210	Seat Belt Assembly Anchorage	1-1-68	7-1-71
212	Windshield Mounting	1-1-70	—
214	Side Door Strength	1-1-73	—
216	Roof Crush Strength	8-15-73	—
301	Fuel System Integrity	1-1-68	—

Digitized by Google

and earlier in production and manufacture after the beginning of [illegible] must be fitted with lap belts or lap belt-shoulder harness assemblies, and must not be driven unless the driver wears the restraint. However, estimates that available safety belts were worn by [illegible] per cent of drivers in BMCS-inspected vehicles and [illegible] per cent of drivers in accidents reported to BMCS [illegible] probably greatly overestimate usage, since drivers [illegible] "buckle up" at weighing or inspection stations and over-report usage when a crash is being investigated. At present there is no basis for belief that a majority of professional drivers are actually protected by safety belts, especially since few companies not covered by BMCS regulations require their use.

Research has shown that safety belts, when worn, substantially reduce injuries and deaths—and that most automobile drivers do not use them.[illegible] A federal requirement for safety belt use by all professional drivers would be comparable to OSHA regulations requiring use of protective equipment such as hard hats and goggles, and for seat belt use by operators of tractors with rollbars. If competent evaluation of existing regulations requiring employees to use safety belts shows a reduction in deaths and injuries, such a federal requirement would be in order.

A variety of modifications to the vehicle can help to dissipate crash forces in such a way that injury is reduced or prevented. Unlike safety belts, [illegible] designed to absorb the energy of impact as gently as possible, passive restraints such as airbags, and energy-managing steering assemblies and front-end structures can reduce injury to occupants without requiring their active participation. These "passive" approaches, however, have been applied far less commonly to commercial vehicles than to automobiles, and some—such as passive restraints—are rarely available even in automobiles.[illegible] Thus, millions of workers have been deprived of "fail-safe" mechanisms* that could protect them when a potentially injurious crash occurs. In non-highway occupations, on the other hand, it has become accepted practice to protect the worker from the consequences of human and other failures, an example is machinery that is automatically switched off before a hand can be mutilated, by an electric eye that senses an impending injury-producing situation.

In one fatal crash in Maryland, steel rods on a flatbed trailer penetrated the barrier on the forward end of the trailer and the back of the cab, killing the driver. Present design of many cargo-carrying vehicles does not ensure adequate cargo containment in the event of crashes at the speeds common on highways. Such crashes should be anticipated and vehicles designed accordingly, to prevent cargo movement and escape of potentially hazardous substances.

Many of the crashes that killed tractor trailer drivers would have been less lethal had their vehicles collided with guardrails capable of safely redirecting heavy vehicles, or with structures that could attenuate the crash forces. Although the past few years have seen improvements to the sides of some highways—especially new interstates—few highways can safely accommodate vehicles having the [illegible] at [illegible] speeds. The hazard is even greater for heavy trucks [illegible]. [illegible] wrote, "For trucks, most [illegible] guardrails."[illegible] This statement, which also applies to bridge and other barrier equipment, is still true in [illegible]. Widespread application of new [illegible] will probably require many years or decades. In establishing warrants as in other aspects of highway design, non-interstate highways generally lag far behind the interstates. Furthermore, the design of non-interstates is [illegible] to the special needs of heavy trucks. Paradoxically, the truck drivers who use non-interstate highways are probably the drivers more likely to be working for intrastate carriers and hence not protected by BMCS safety regulations.

*i.e., mechanisms ensuring that neither human action nor mechanical failure will result in injury.

POST-CRASH—Reducing the Severity of the Consequences

Vehicle design modifications are needed to reduce the likelihood of post-crash fire, which occurred in [illegible] of the fatal tractor trailer crashes, to increase likelihood that doors can be opened post-crash, and to provide alternate escape routes. Extrication appeared to pose a special problem in the case of tractor trailer occupants. At least eight of the [illegible] tractor trailer occupants who died were trapped (other than by fire) for periods of up to five hours. These extrication delays usually involved jammed doors, collapse and distortion of the cab, shifted loads, and/or tractor turnover.

Emergency response and medical care systems generally decrease in their availability and capability as distance from major medical centers increases. This relationship, although obvious, is stressed because a large proportion of commercial driving is rural. Only eight of the [illegible] fatal tractor trailer crashes occurred in Baltimore, where Maryland's major trauma centers are located.[illegible] The concomitantly greater transport time for the injured, and their likelihood of being treated by inadequately trained medical personnel, are further examples of the occupational risks inherent in professional driving. Consideration should be given to offering professional drivers training in the most common life-saving emergency procedures. (If necessary, protection against possible lawsuits could first be assured by statutes similar to the "Good Samaritan" laws protecting physicians.) Although generally a driver would apply such skills to others, widespread training of people who travel a great deal would improve the likelihood of survival of many people, including professional drivers, injured in remote areas.

Conclusion

Unlike most other categories of employers, many employers of drivers have not been required to provide a workplace that is safe from recognized hazards. The Occupational Safety and Health Act does not apply where other federal agencies "exercise statutory authority to prescribe or en-

Digitized by Google

TABLE 3—Examples of Strategies to Reduce Crash-Related Deaths and Injuries Among Professional Drivers

PRE-CRASH PHASE
Driver training
Maintenance of tires, brakes, and other equipment
Improved braking capacity
Adequate power
Exhaust systems that prevent CO poisoning
Partitions to prevent load shift
Speed governors
Better traffic separation at intersections
Greater radius of curvature on ramps
Improved timing and visibility of signals
Alternative travel modes
CRASH PHASE
Bumpers and front and structures that attenuate crash forces
Greater decelerative distance at front of vehicles
Increased safety belt use
Airbags or other passive restraints
Load securement
Better guardrails
Crash attenuators in high-hazard locations
POST-CRASH PHASE
Fuel systems that don't leak or rupture after impact
Reinforced occupant compartments to prevent entrapment
Escape hatches
Driver training in emergency procedures
Community response systems

two police officers—whose "workplaces" were automobiles rather than trucks—died and two others became ill from carbon monoxide poisoning that might have been prevented by appropriately designed tailpipes.[12, 13]

The problem of loaded weight in relation to a truck's power (reflected by its ability to maintain speed on a grade) was indicated in our study of fatal crashes by the finding that the tractor trailer was the lead vehicle in seven of the eight rear-end collisions known to have occurred on an upgrade. Inadequate braking ability (also related to loaded weight) may have been a factor in other rear-end collisions: the tractor trailer was the rear (striking) vehicle in 23 of 31 cases *not* known to have occurred on an upgrade (Table 4). Although occupants of the car are killed or injured more often than truck drivers in these collisions, remedies would benefit occupants of *all* vehicles involved.

In 1970, the National Transportation Safety Board recommended that before increases in gross truck weights were permitted, standards should specify minimum performance levels for brakes and a maximum ratio of gross weight to net horsepower.[14] The Board's recommendation was not followed when increases in permitted weights were authorized by Congress in 1974. Measures to negate the adverse effects of the weight increases are presently being considered in Congress. Although airbrake standards have been implemented, trucks with hydraulic brakes (comprising about one-fifth of all new motor vehicles) are still exempted from any federal brake standard. As a result of present and past inadequacies in brake standards, crash-precipitating discrepancies in stopping distances of cars and trucks remain a substantial problem.

Forty fatal collisions between tractor trailers and other vehicles occurred on divided highways that were not limited-access highways. Of these, 16 (40 per cent) involved other vehicles pulling onto the highway from a side road or turning left in the path of oncoming tractor trailers. Road designs that allow vehicles to intersect the paths of fast-moving, heavily laden, hard-to-stop tractor trailers are analogous to intersections where roads cross train tracks. Yet while many rail-highway intersections are being eliminated because drivers cannot always correctly perceive and react to fast-approaching trains, similar solutions are too rarely applied to the analogous highway situation. The resulting crashes exemplify the failure of many highways to adequately reduce the crash risks of vehicles that can legally travel on them. Possible approaches to the problem include modifying or eliminating intersections and restricting most high-speed travel of heavy trucks to limited-access highways.

CRASH PHASE—Reducing the Occurrence or Severity of Injury

At least eight of the 41 fatally injured tractor trailer occupants were ejected. The BMCS requires that vehicles oper-

TABLE 4—Fatal Tractor Trailer Crashes Direction of Grade in Rear-end Collisions

Crash Configuration*	Direction of Grade				
	Up	Down	Not on Grade	Unknown	Total
Other vehicle struck back of tractor-trailer	7	1	4	3	15
Tractor-trailer struck back of other vehicle	1	2	11	10	24
Total	8	3	15**	13***	39

*Table excludes 3 rear-end collisions between tractor-trailers
**Includes 2 collisions at hillcrest
***Includes 6 collisions that occurred on a grade, direction unknown, and 7 for which it was not known whether on grade.

Digitized by Google

force standards or regulations affecting occupational safety and health."[1] A recent notice of proposed rulemaking indicates the intent of the Bureau of Motor Carrier Safety "to remove all doubt concerning the full exercise" of its statutory authority to prescribe and enforce regulations affecting occupational safety and health, in activities within the jurisdiction of BCMS. The proposal, if adopted, would eliminate potential areas of dual regulation under BMCS and OSHA.[20] It would not, however, broaden the spectrum of drivers protected by federal regulations.

An important difference between coverage under BMCS and OSHA regulations is that whereas under OSHA, applicability of standards to "businesses affecting interstate commerce"[1] has been so broadly interpreted that OSHA regulations apply to essentially *all* employers and employees not covered by other federal agencies, BMCS regulations, on the other hand, have been applied primarily to motor carriers whose business involves transport of passengers or property moving between states or countries; local distribution of goods manufactured out-of-state, for example, is not necessarily considered interstate commerce.[21] This difference may be largely responsible for the apparent no-man's-land of drivers ignored by both OSHA and BMCS regulations.

Although it might be argued that DOT's many programs and standards aimed at reducing highway deaths and injuries also protect *employees* who drive, this is not their special objective. In fact, as noted above, motor vehicle safety standards have commonly been "relaxed" for trucks and other vehicles likely to be driven commercially. Often such exemptions have been granted to facilitate enactment of standards for the far greater number of passenger cars—but the fact remains that many professional drivers have been left with worse-than-average crash protection. Furthermore, at least one kind of DOT regulation works to the detriment of professional drivers (including many drivers covered by BMCS): regulations that include the tractor in maximum length and weight limits for tractor trailers make it possible to increase the legal payload by sacrificing driver protection. Truck tractors of light weight materials and with "cab-over-engine" designs lacking front-end crash-attenuating structures may be profitable to carriers, but hazardous to drivers.[22] The same point holds with regard to increases in permitted weights of loaded trucks.

Thus, in many respects professional drivers are often at extra risk of injury on the highway. Taking special steps to protect them *as workers* may well be appropriate—just as some recognized hazards are banned by federal regulation in the workplace but not in private homes (cluttered floor areas and unguarded power saws, for example).

The extent of an employer's duty to protect employees against avoidable hazards has been queried with regard to hazardous routes—whether, for example, an employer's insistence that a driver use "a manifestly dangerous highway section, rather than use some alternate safer route, is a breach of the OSHA duty."[23] Similarly, even though private use of motorcycles, mopeds (motor-bikes), and subcompact cars may be permissible, the demonstrated failure of such vehicles to give adequate protection in crashes[24-26] may raise a question as to whether employers should provide them as on-the-job transportation.*

Summary

This paper has emphasized environmental approaches to the problem of occupational highway deaths. In addition, approaches making drivers of buses, heavy trucks, and hazardous cargo more capable of performing their tasks are needed. Needs for special training and screening for relevant medical conditions (especially alcoholism) must be met.* Modification of the working *environment*, however, is a fruitful approach that has largely been neglected with respect to occupational hazards related to the vehicle and highway environment. In summary, the following areas are of particular concern:

1. There are large groups of professional drivers whose on-the-road occupational safety has been addressed by no federal agency.
2. Trucks have been exempted, often for periods of many years, from most federal motor vehicle safety standards designed to prevent crashes or protect occupants in crashes.
3. Failsafe mechanisms and passive protection, although applied in other occupational environments, have not been applied to vehicular "workplaces" to the extent practical.
4. Highway (including roadside) design often is not responsive to special risks related to the large and heavy trucks presently permitted on the highways.

We believe that the power to address these problems exists already, in various federal agencies. Furthermore, the technical capability exists, and often has existed for years or decades, without being applied. What is required now is acknowledgment of the problems, clarification of responsibility, development of organizational mechanisms, and, finally, application of available knowledge and technology. Until such steps are taken, the worker whose "workplace" is a motor vehicle is not likely to benefit from the intent of the Occupational Safety and Health Act "... to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources."[1]

ACKNOWLEDGMENTS

This work was supported by the Insurance Institute for Highway Safety and the Maryland Medical-Legal Foundation. The opinions expressed are those of the authors and not necessarily those of the institutions with which they are associated or of the sponsors.

*The motorcycle death rate per 100 million person miles of travel is roughly seven times that of cars.[27] Much of this difference is due to lack of protection when a crash occurs. In addition, it is noteworthy that accident rates for various categories of private vehicles are highest for motorcycles.[4]

Digitized by Google

REFERENCES

1. U.S. Congress. Occupational Safety and Health Act of 1970. Public Law 91-596, 91st Congress, S. 2193. Washington, D.C. December 29, 1975.
2. Carroll, P. S. Classification of driving exposure and accident rates for highway safety analysis. Accid. Anal. and Prev. 5:81–94, 1973.
3. Mela, D. NHTSA Update of Information on Heavy Truck Accidents. Report to National Highway Safety Advisory Committee, Dec. 8, 1975. Washington: Dept. of Transportation.
4. Workmen's Compensation Commission of Maryland. Fifty-ninth Annual Report, Annapolis, Maryland, 1974.
5. California Department of Industrial Relations, Division of Labor Statistics and Research. Work Injuries in Trucking. San Francisco, 1975.
6. National Safety Council. Accident Facts, 1975 Edition, Chicago, 1975.
7. Baker, S. P., Wong, J., and Masemore, W. C. Fatal tractor trailer crashes: considerations in setting relevant standards. Proceedings of the Fourth International Congress on Automotive Safety. Washington, D.C., U.S. Dept. of Transportation, NHTSA, 1975.
8. Baker, S. P. Alcohol in fatal tractor trailer crashes. Proceedings of the 19th Annual Meeting of the American Association for Automotive Medicine. Lake Bluff, Ill., 1975.
9. Haddon, W., Jr. A logical framework for categorizing highway safety phenomena and activity. J. Trauma 12:193–207, 1972.
10. Baker, S. P. Injury control. In Sartwell, P. E. Ed. Preventive Medicine and Public Health (10th ed.) New York: Appleton-Century-Crofts, 1973.
11. U.S. Department of Transportation, Bureau of Motor Carrier Safety. Safety Road Checks, Motor Carriers of Property July through December 1972. Washington, D.C., 1973.
12. Baker, S. P., Fisher, R. S., Masemore, W. C., and Sopher, I. M. Fatal unintentional carbon monoxide poisoning in motor vehicles. Am. J. Public Health 62:1463–1467, 1972.
13. Insurance Institute for Highway Safety. Chrysler Conducts Recall; Further NHTSA Action Urged. Status Report 10:18:3–4. November 5, 1975.
14. Insurance Institute for Highway Safety. Heavier Trucks Bogged Down. Status Report 9:17:4, September 27, 1974.
15. Tlemann, N. T. Required safety belts for drivers in interstate commerce. Proceedings of National Safety Belt Usage Conference. Washington, D.C.: U.S. Dept. of Transportation, 1973.
16. Robertson, L. S. Motor Vehicle Occupant Restraint Use and Effectiveness in Real-World Crashes. Washington: Insurance Institute for Highway Safety, 1975.
17. Haddon, W., Jr. Strategy in preventive medicine: passive versus active approaches to reducing human wastage. J. Trauma 14:353, 1974.
18. Haddon, W., Jr. Perspective on a current public health controversy. Am. J. Public Health, 65:1342–1344, 1975.
19. Haddon, W., Jr. Reducing Truck and Bus Losses—Neglected Countermeasures. Pub. 710409. Warrendale, Pa.: Society of Automotive Engineers, 1971.
20. Plenary Exercise of Statutory Authority Over Motor Carrier Safety and Hazardous Materials. 49 CFR Part 390, Federal Register, 40:136:29729, July 15, 1975.
21. U.S. Department of Transportation, Bureau of Motor Carrier Safety, Operations Manual Vol 6, Chapter III, Interpretations Manual, Interstate vs. Intrastate Commerce-Property. Pages 1–17. Transmittal 192. Washington, D.C. August 29, 1975.
22. Roley, R. W. The Tragedy of "Cab over" Tractors. Lake Bluff, Ill.: American Association for Automotive Medicine, Quarterly 4, p. 18. December 1973.
23. Fitzpatrick, J. F., Sohn, M. N., Silfen, T. E., and Wood, R. H. The Law and Roadside Hazards. Charlottesville, Va.: The Michie Co., 1974.
24. Haddon, W., Jr. and Baker, S. P. Injury Control. In Preventive Medicine, (2nd ed) Clark, D. and MacMahon, B., Eds. Boston: Little, Brown and Company. To be published.
25. Robertson, L. S. and Baker, S. P. Motor Vehicle Sizes in 1440 Fatal Crashes. Washington: Insurance Institute for Highway Safety, 1975.
26. Insurance Institute for Highway Safety. Government Considering Moped Use Standard. Status Report 10:19: 1–4, 1975.

Digitized by Google

(For presentation at the 22nd Conference of the American Association for Automotive Medicine, Ann Arbor, July 10, 1978.)

Fatal Occupational Injuries Associated With Motor Vehicles

By Trudy A. Karlson, M.S., Graduate Student, University of Wisconsin, Madison, Wis., and Susan P. Baker, M.P.H., Associate Professor, Johns Hopkins University, School of Public Health and Hygiene, Baltimore, Md.

ABSTRACT

One hundred and sixty one occupational injury deaths to Wisconsin residents during 1976 were identified from death certificates and from Worker's Compensation records. Thirty-seven percent of the total (59 deaths) were related to highway motor vehicles. Twenty percent (33 deaths) were associated with trucks. Fourteen percent (23 deaths) were truck drivers. The annual per capita death rate for truck drivers was 65/100,000, about 9 times the rate for all other Wisconsin workers.

Of the deaths associated with motor vehicles, 39 percent could not be identified from information coded from the death certificate and 36 percent were not reported to Worker's Compensation. The resulting estimates of truck driver death rates and of the proportion of all occupational deaths associated with motor vehicles are therefore conservative.

The failure of federal agencies adequately to address the problem of occupational safety for large groups of workers who drive on the job is of particular concern in view of the size of the problem.

THE RIGHT OF ALL WORKERS to a safe working environment has been established by federal law. [1] This right has not yet become fact, however, for the many workers who drive on the job and whose working environment is therefore the motor vehicle and the highway. More than 30 percent of occupational injury fatalities involve motor vehicles; annually, there are about 4,000 such deaths in the United States. [2, 3] W know of no larger group of occupational injury deaths.

Last year, the International Association for Accident and Traffic Medicine passed a resolution that "professional drivers, such as those who control taxis, trucks and buses, should not be denied the benefits of proven safety measures. [4]

With a view of furthering this basic objective, and as a follow-up to previous studies related to the hazards of occupational motor vehicle use, [3, 5] we undertook a study of occupational fatalities associated with the highway motor vehicles in Wisconsin. Our purposes were to estimate the number of such fatalities, to estimate the annual per capita death rate for truck drivers, and to determine the limitations of various data bases for identifying vehicle-related deaths occuring at work.

METHODS AND DATA SOURCES

Fatal injuries that occurred at work to Wisconsin State residents were identified from records at the State Department of Health, Section of Vital Records and the Worker's Compensation Division of the Wisconsin Department of Industry, Labor, and Human Relations. These data sources, which exist for different reasons, identify different but overlapping groups of occupational injury deaths. Using both sources, we found 161 occupational injury deaths to Wisconsin residents during 1976. The Section of Vital Records identified 123 occupational injury fatalities during 1976, consisting of all those whose death certificates were coded as having a "yes" response to the question, "Injury at work?". Information on 91 injury fatalities was obtained from the Worker's Compensation Division monthly reports of work-related deaths in 1976. Deaths from diseases and unknown causes were excluded from the study as were injury deaths to non-residents.[1] Wisconsin residents who died out of state were included. Information on occupation, age, injury event, and date of death was obtained for each case.

Of the 1970 occupational injury deaths, 59 were associated with the use of motor vehicles. These were primarily associated with highway crashes, but included 6

[1] The total list of 116 deaths from Worker's Compensation Division included 18 deaths from diseases and heart attacks, one death of unknown cause, and 6 injury deaths to out-of-state residents.

Digitized by Google

deaths in loading and unloading cargo and 1 death in the course of vehicle repair.

Figures 1 and 2 illustrate the number of cases reported by each source. Table 1 shows percentages of underreporting by each source. The Section of Vital Records did not identify 24 percent (38) of occupational injury deaths of all causes, generally because death certificates did not indicate injury at work; nor did it identify 39 percent (23) of occupational deaths associated with motor vehicles.

The Worker's Compensation Division did not identify 43 percent (70) of all occupational deaths nor 36 percent (21) of motor vehicle-associated deaths. Of these 21 deaths, 14 involved trucks. Because worker's families receive financial benefits only if deaths are reported, this series is likely to include essentially all work-related injury deaths among workers covered. Not all workers, however, are covered by Worker's Compensation. Farmers and members of their families working on the farm are the largest group not covered in Wisconsin, and their deaths accounted for 49 percent (34) of the 70 fatalities reported to Vital Records. Self-employed workers also are not covered, which may account for the 6 truck drivers who died in-state and at work but were not reported to Worker's Compensation. Eight truck drivers who died out-of-state were not reported either, although some of their deaths may have been reported to Worker's Compensation Boards in other states.[3] Thus, occupational fatality data based solely on Worker's Compensation sources underestimate the number of deaths associated with motor vehicles, especially among farmers, the self-employed, and workers dying out-of-state. Deaths of truck drivers are likely to be well represented in the latter two categories.

Our data series, then, is based on vital records, which includes virtually all deaths but in a substantial proportion of cases does not show that an injury occurred at work, and Worker's Compensation, which probably has reports on essentially all work-related injury deaths to those covered, but does not cover all workers. While the combination yields a much better estimate than either source alone, it undoubtedly underestimates occupational injury deaths, especially those related to motor vehicles. For example, self-employed truckdrivers, salesmen, and farmers who are killed while driving in the course of their work would not be reported to Worker's Compensation, and their death certificates might fail to indicate that they were injured at work; all such cases would have been missed by this study.

Data from the Wisconsin Area Offices of the Occupational Safety and Health Administration (OSHA) did not improve our casefinding. Only 53 injury fatalities were reported to them for 1976.

RESULTS

In 1976, highway motor vehicles were associated with 37 percent of all identified occupational injury deaths to Wisconsin residents (59 out of 161). This is a minimum estimate since such cases are greatly underreported by both sources of data. Of the 59 deaths known to involve motor vehicles, 33 (56 percent) were associated with trucks and 24 (41 percent) with cars (Table 2). In 10 of the 58 cases, information on the injury event was described only as "traffic accident"; of these, since the injury occurred at work, the 4 deaths to truck drivers were assumed to be associated with trucks and the other 6 with cars.

The 33 deaths involving trucks represent 20 percent of all occupational injury fatalities. Not all whose deaths were associated with trucks were truck drivers (Table 3). The others were 4 farmers, 2 garbagemen, 1 mechanic, 1 stone mason, 1 refrigerator serviceman; the occupation of two others was listed as truck driver on their death certificates, but in the Worker's Compensation files was given as "wholesale salesman of petroleum product" and "laborer for a rubbish hauling company." These were excluded from the "truck driver" category.

---

[3] Generally, deaths are reported to the Worker's Compensation Board in the state where the employer is located. Some Wisconsin residents may work for employers in other states, and their deaths would not be reported to the Worker's Compensation Division.

Digitized by Google

TABLE 1.—OCCUPATIONAL INJURY DEATHS, BY SOURCE THROUGH WHICH IDENTIFIED AND WHETHER ASSOCIATED WITH MOTOR VEHICLES (WISCONSIN, 1976)

Source	Motor vehicle associated	Nonmotor vehicle associated	Total
Total identified	59	102	161
Bureau of Vital Records only	21	49	70
Workers's compensation only	23	15	38
Both	15	38	53
Percent not identified by Bureau of Vital Records	39	15	24
Percent not identified by worker's compensation	36	48	43

TABLE 2.—REPORTING SOURCE FOR MOTOR VEHICLE ASSOCIATED OCCUPATIONAL INJURY DEATHS (WISCONSIN RESIDENTS, 1976)

	Cars	Trucks	Other	Total
Vital records only	6	14	[1] 1	2
Worker's compensation only	12	10	[2] 1	23
Both	6	9	0	15
Total	24	33	2	59

[1] Motorcycle.
[2] Jeep.

The annual per capita occupational injury death rate for truck drivers was 65/100,000, 9 times the rate for other workers in the state (Table 4).[3] This rate is the most conservative (i.e., lowest) estimate that can reasonably be made from our data, and does not adjust for the probably underreporting of deaths involving motor vehicles described above.

Highway crashes accounted for 22 (67 percent of the 33 truck-related deaths (Table 3). The other non-highway fatalities resulted from the varied tasks performed by many vehicle operators, such as loading and unloading cargo and vehicle maintenance and repair. Four truck drivers died loading or unloading cargo.[4] Two of these drivers died in separate but identical situations: as they unloaded concrete blocks from their trucks, the boom built into the trucks for purposes of loading and unloading contacted high-voltage power lines overhead and the drivers were electrocuted. A third driver was killed when cargo fell on him, the fourth was pinned between the loading dock and his truck.

Cars were associated with 24 deaths, all in highway crashes. As in the case of trucks, this number must also be considered a minimum estimate for the reasons given above. Table 5 describes the occupations of those who died in cars. Twelve of the 24 car drivers had occupations often associated with large amount of driving, while the occupations of the other 12 suggested that driving was incidental to their work.

DISCUSSION

Unlike many occupational illnesses, where lack of a recognized etiology has often been blamed for worker exposure.(6) injuries associated with motor vehicles required primarily the application of existing knowledge and technology.

[3] Although loading/unloading is often done by people other than the driver, the occupational status in the 4 cases was given on both the death certificate and Worker's Compensation report as "truck driver." Two other deaths while loading/unloading involved men whose occupational status was listed as truck drivers on their death certificates, but not on Worker's Compensation records. One was burned as he transferred his cargo of gasoline into a storage tank; the other was killed when cargo fell on him.
[4] 95 percent confidence limits were 40 to 91 deaths/100,000 truck drivers, per year, and 6 to 9/100,000 for other workers.

Digitized by Google

[3,5,10,11] To lend impetus to the needed control efforts, documentation of the size of the problem is required. The present study provides such documentation for the state of Wisconsin, and many of the identified problems are undoubtedly widespread in the United States.

Three major findings of the study are (1) existing sources of information on occupational injury deaths, when used singly, greatly underestimate the number of motor vehicle related work deaths, (2) the death rate per 100,000 truck drivers in Wisconsin is about nine times the death rate for other occupations, and (3) 37 percent of all occupational injury deaths were associated with motor vehicles.

TABLE 3.—OCCUPATIONAL INJURY DEATHS ASSOCIATED WITH TRUCKS (WISCONSIN RESIDENTS, 1976)

Injury event	All occupants	Truck drivers
Highway deaths	23	17
Loading/unloading cargo	6	4
Other [1]	4	1
All events	33	[2] 22

[1] Includes 1 truck driver who died of CO poisoning, 1 garbageman struck by a car when riding on back of a truck, 1 farmer killed when his pickup burned, and 1 mechanic pinned by the truck box while changing oil.

[2] There is 1 truck driver in the series whose death was classified as not related to highway motor vehicles: he was killed by a front-end loader that overturned.

TABLE 4.—OCCUPATIONAL FATALITY RATES (WISCONSIN RESIDENTS, 1976)

	Estimated work force [1]	Number of deaths [1]	Rate per 100,000 workers (S.E.)
Truck drivers	35,600	23	64.6 (13.4)
All others	1,807,000	136	7.5 (.7)

[1] Estimates are interpolations of 1970 census data and 1980 projections published by Wisconsin Department of Industry, Labor, and Human Relations. The work force estimate is for civilian workers over 14. 2 deaths to people not in this category have been excluded from this table.

TABLE 5.—Occupations of drivers killed at work while driving cars (Wisconsin residents, 1976)

	Number
Occupations that usually require driving	12
Sales	5
Police	2
Deliveryman	1
Cabdriver	1
4–H agent	1
Serviceman	1
Field service	1
Other occupations (e.g., attorney, secretary, laborers)	12

Failure to note on the death certificate or to code appropriately injuries occurring at work characterized 24 percent of all occupational injury deaths identified in this study. In Wisconsin, the death certificate for anyone who dies following injury is filled out by the physician. Vital records personnel do not query physicians if this item is unanswered or apparently incorrect. Studies similar to the present one need to be done in other states, including those with medical examiner systems, to estimate the size of this problem elsewhere and to develop means of solving it.

Digitized by Google

Especially prone to underestimation is the number of motor vehicle associated occupational fatalities. In Wisconsin 39 percent of such deaths could not be identified through death certificates. This may be because physicians do not associate so-called "traffic accidents" with deaths at work.[5]

In addition to commonly being unidentifiable through vital records, occupational deaths associated with motor vehicles are also underreported to Worker's Compensation: 36 percent of such deaths in this study were not known to Worker's Compensation. Of the 23 truck drivers fatally injured at work, 10 were not reported to Worker's Compensation.

Reinforcing our impression that the estimate of truck driver deaths is low, data on Wisconsin highway crashes from the U.S. Department of Transportation's Fatal Accident Reporting System (FARS) shows that during 1976, 29 occupants of heavy trucks and 73 occupants of pickup trucks and vans were killed. [12] Our series identified only 13 of these deaths, i.e., truck occupants killed in Wisconsin highway crashes. While some of the truck occupant deaths not identified by our study may be non-occupational deaths or involved other out-of-state residents, it is probable that some were Wisconsin truck drivers.

A survey by the Bureau of Labor Statistics (BLS) is an additional source of estimates of state and national occupational fatalities. This survey covers a sample of employees who are under the jurisdiction of OSHA (i.e., excluding miners, railway workers, the self-employed, and workers on farms with fewer than 11 employees). Data from the survey are reported only by industry type and therefore cannot be used to examine deaths due to a particular cause—for example, motor vehicle related deaths. The BLS estimate of occupational injury and illness deaths in Wisconsin in 1976 was 92. [13] Although the BLS does not purport to cover all workers, it is of interest that this number is 21 percent less than the 116 injury and illness deaths reported to Worker's Compensation, and 43 percent less than the 161 injury deaths identified by this study. Nationally, BLS estimated 4,500 injury fatalities in 1976, [14] compared to 12,500 estimated by the National Safety Council, (NSC). [2]

The annual per capita injury death rate calculated for Wisconsin truck drivers—about 65/100,000—is higher than national rates per 100,000 for other major high-risk occupations: agriculture—54, construction—57, and mining—63 [2] Although we consider the rate for truck drivers to be an underestimate, sources of possible overestimation were considered. First, in some cases occupation might have been mistakenly given as "truck driver". However, there is no obvious reason that this is more likely to occur than an error in the opposite direction. Second, reports to Worker's Compensation might have involved workers who were not Wisconsin residents. Since they necessarily worked for Wisconsin employers and had Wisconsin addresses, this is unlikely. All non-residents were deleted from our sample.

Overestimation of the rate could also occur if the number of truck drivers in the denominator was underestimated. The estimate of the number of truck drivers in Wisconsin is based on the U.S. Census, and constitutes a proportion of the Wisconsin workforce (1.9 percent) which is similar to corresponding national BLS estimates (2.0 percent). [15] Greatly different from the census-based estimate of 1.75 million truck drivers nationally is the estimate by the U.S. Department of Transportation's Bureau of Motor Carrier Safety (BMCS) of 3.5 to 4 million interstate drivers plus a similar number of intrastate drivers. [16] This estimate is based on the estimated number of commercial trucks in the U.S. and, if correct, would represent about one out of every 7 members of the male workforce. The BLS estimate, which would indicate that one out of every 30 members of the male workforce is a truck driver, seems more credible and is based on census data rather than vehicles. The BMCS estimates include an unknown number of farmers and other workers who drive trucks even though tional groups that we have attempted to exclude when calculating the death rate tional goals that we have attempted to exclude when calculating the death rate for truck drivers.

[5] This percentage may not be as high for deaths in 1977 and subsequent years because of a change in coding schemes that now allows for more accurate ascertainment of motor vehicle associated occupational injury deaths.

Digitized by Google

Our third major finding—that 37 percent of the occupational injury deaths were associated with motor vehicles—was not entirely unanticipated, in view of NSC estimates that about 4,000 of a total of 12,500 occupational injury deaths, or 32 percent are related to motor vehicles. [2] Our figure of 37 percent (59 out of 161) for Wisconsin is higher than the NSC figure, but it should be noted that about 10[6] of these 59 deaths might not fall within NSC definitions of motor vehicle deaths; if these 10 are excluded, then the figure for Wisconsin is 30 percent. The finding that truck drivers comprised 14 percent of all occupational injury deaths indicates the need for similar studies in other states: a study in California reported that truck drivers made up 7 percent of all deaths reported in Worker's Compensation, compared to only 1 percent of all workers covered. [17]

Because motor vehicles are associated with such a large proportion of occupational injury deaths, their prevention should receive the highest priority in occupational safety. It is therefore of major concern that governmental regulations give little specific attention to workers whose jobs require driving. [3] Currently, regulations affecting such drivers or their vehicles are promulgated by three federal agencies: the Occupational Safety and Health Administration (OSHA) in the Department of Labor, and the National Highway Traffic Safety Administration (NHTSA) and Bureau of Motor Carrier Safety (BMCS) in the Department of Transportation. Each of these has effectively excluded all or many truck drivers, as well as others driving on the job, from coverage by some or all of its regulations.

The Occupational Safety and Health Act of 1970 was the first federal legislation that affirmed the right of all workers to a safe working environment. It has not been applied to on-the-road safety, however, because of the Department of Transportation's prior authority in this area. One clause of the Act states that "Nothing in this act shall apply to working conditions of employees (where) other agencies exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health." [1] In the case of trucks engaged in interstate commerce, BMCS had previous statutory authority to set cetrain safety regulations (relating, for example, to hours of-service, inspection and maintenance of vehicles, loading practices, seat belt use, and emergency signals) and therefore preempted OSHA. The judgment of the OSHA Review Commission on a case pertaining to wheel shocks was that "in order to be exempt from OSHA coverage, it is not necessary that the other agency's regulations be similar to or as stringent as the OSHA standards." [6]

OSHA has some standards designed to protect some operators of non-highway vehicles such as tractors, cranes, and earth movers, and the BMCS regulations address the safety of some operators of highway vehicles. There is, however, a great "no-man's land" of drivers whose occupational safety is ignored by both OSHA and BMCS regulations. This is discussed more fully elsewhere, [3, 18, 19] but the crux of the situation as regards highway vehicles is the BMCS regulations are primarily applied to motor carriers whose businesses involve moving people or property between states. Thus, there is no federal agency that addresses the working, on-the-road safety of millions of other drivers—intrastate truck drivers, deliverymen, servicemen, taxi drivers, salesmen, etc.

Unlike OSHA and BMCS, NHTSA is not charged with occupational safety as such. It does, however, set vehicle safety standards relating to crash avoidance (e.g., braking ability), vehicle crashworthiness (e.g., occupant compartment integrity, energy absorbing steering columns), and post-crash problems for private cars, but most of these standards either have not been applied to trucks, vans, and multipurpose vehicles or have been applied years later than to cars. [3] In view of the fact that so many of the vehicles exempted from the standards are used occupationally, and that a large proportion of occupational deaths occur in such vehicles, vehicle safety standards should be extended wherever applicable and as soon as possible to all trucks, vans, and other vehicles currently not required to meet them.

A case in point is the passive restraint standard, requiring automatic crash protection for front seat passengers in frontal crashes. Federal rulemaking for the standard for cars began in 1969, 14 years before all new cars must meet the standard. In view of the demonstrated life-saving potential of passive restraints [20] and the need for them in trucks [5] and other vehicles, and considering

[6] See table 8.

Digitized by Google

the length of time required once rulemaking activity begins, it is to be hoped that rulemaking will be initiated shortly for passive restraints in vehicles other than cars. NHTSA's new five year plan [21] indicates that many of the federal motor vehicle standards—including the standard for passive restraints—will be extended to cover *light* trucks, vans, and multipurpose vehicles. Such action is urgent, as is extension of the standards to cover *heavy* trucks, the vehicles predominantly involved in deaths to truck drivers.

CONCLUSION

Of 1970 occupational injury deaths to Wisconsin residents in 1976, 37 percent were related to highway motor vehicle use. Twenty-three of those killed, or 14 percent of all occupational injury deaths identified, were truck drivers. Their annual per capita death rate was 65/100,000, about 9 times the death rate of other workers in Wisconsin. Since the only two sources used to identify cases greatly underestimate deaths associated with motor vehicles, the resulting estimates of truck driver death rates and other occupational deaths associated with motor vehicles are probably low. Further studies are needed to determine rates elsewhere for truck driver deaths as well as rates for other workers who drive on the job, to examine the causes of the deaths, and to identify needed countermeasures.

Clearly, in terms of both absolute numbers of occupational deaths associated with motor vehicles and death rates for truck drivers, the problem is enormous. Federal agencies have failed to address the issue. Protection of truck drivers and all workers who drive on the job is an urgent priority in occupational safety and in highway safety.

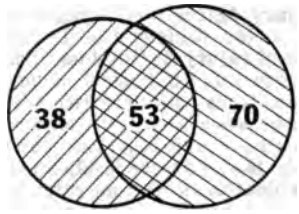
ACKNOWLEDGEMENTS

The authors would like to thank the staff of the Wisconsin Division of Health, Bureau of Health Statistics and Section of Vital Records for their help; it was given often, freely, and graciously. Thanks are due also to the Risk Management Section and Research and Statistics Section of the Wisconsin Department of Labor, Industry, and Human Relations. Support of this research was supplied in part by the Maryland Medical-Legal Foundation.

Digitized by Google

REPORTING SOURCES OF OCCUPATIONAL INJURY FATALITIES
•WISCONSIN RESIDENTS 1976•

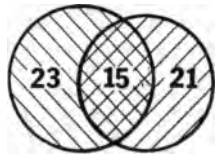
Total number of reported fatalities 161



Worker's Compensation Division	Bureau of Vital Records
TOTAL 91	TOTAL 123

REPORTING SOURCES OF MOTOR VEHICLE ASSOCIATED OCCUPATIONAL FATALITIES
•WISCONSIN RESIDENTS 1976•

Total number of reported fatalities 59



Worker's Compensation Division	Bureau of Vital Records
TOTAL 38	TOTAL 36

Digitized by Google

References

1. U.S. Congress. Occupational Safety and Health Act of 1970. Public Law 91–596. 91st Congress. S. 2193. Washington, D.C.
2. National Safety Council. Accident Facts, 1977 Edition. Chicago: National Safety Council. 1977.
3. Baker, S. P., Wong, J., and Baron, R. D. Professional drivers: protection needed for a high-risk occupation. Am. J. Public Health 66:649, 1976.
4. Sixth International Conference of the International Association for Accident and Traffic Medicine (IAATM), Resolutions. J. Traffic Medicine 5:1:7–8, 1977.
5. Karlson, T., Baker, S. P., and Morton, B. Fatally injured truck drivers. Proceedings of the 21st conference of the AAAM. Morton Grove, Illinois. 1977, pp. 367–378.
6. Ashford, N. A. Crisis in the Workplace. Cambridge, Mass. MIT Press, 1976, pp. 283 and 72–126.
7. Haddon, W., Jr. A logical framework for categorizing highway safety phenomena and activity. J. Trauma 12:193, 1972.
8. Haddon, W., Jr. Reducing the damage of motor vehicle use. Massachusetts Institute of Technology, Technology Review 77:8:52, 1975.
9. Haddon, W. Jr., and Baker, S. P. Injury Control, a chapter for Preventive Medicine, 2nd edition, edited by D. Clark, and B. MacMahon. Boston, Little, Brown and Company, in preparation.
10. Wigglesworth, E. C. Occupational injuries: an exploratory analysis of successful Australian strategies. Med. J. Aust 1:335, 1976.
11. Haddon, W. Jr. Reducing truck and bus losses—neglected countermeasures. Pub. 710409. Warrendale, Pa.: Society of Automotive Engineers, 1971.
12. National Highway Traffice Safety Administration. The fatal accident reporting system, 1976. Annual Report. Table 1.9. Washington, D.C. Department of Transportation, 1976.
13. Bureau of Labor Statistics Survey. Wisconsin, 1976. Dept. of Industry, Labor, and Human Relations, Bureau of Research and Statistics, Risk Management Section.
14. Reports on Occupational Injuries and Illness for 1976. News Release, Dec. 1, 1977. Office of Information, Dept. of Labor, Washington, D.C.
15. Revised Occupational Projections, Bureau of Labor Statistics. Monthly Labor Review, November 1976, pp. 10–22.
16. Comptroller General of the United States. Report to Congress. The Federal motor carrier safety program: not yet achieving what the Congress wanted. Washington, D.C., U.S. General Accounting Office, 1977.
17. California Department of Industrial Relations, Division of Labor Statistics and Research. Work injuries in trucking. San Francisco, 1975.
18. Barry, P. and Linden, A. Deaths from farm machinery accidents. Presented at the 1977 meeting of the American Public Health Association, Washington, D.C.
19. Karlson, T. and Noren, J. Farm tractor associated fatalities. Univ. of Wisconsin, Dept. of Preventive Medicine. Madison, Wisconsin, 1977.
20. Insurance Institute for Highway Safety. Background Manual on the Passive Restraint Issue. Washington, D.C.: Insurance Institute for Highway Safety, Watergate 600, 1977.
21. National Highway Traffic Safety Administration. Five year plans for motor vehicle safety and fuel economy rulemaking. Washington, D.C.; Dept. of Transportation, March, 1978.

Digitized by Google

THE JOHNS HOPKINS UNIVERSITY,
SCHOOL OF HYGIENE AND PUBLIC HEALTH,
Baltimore, Md., June 9, 1978.

Re Docket Number 78–0

DOCKET SECTION,
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
Washington, D.C.

GENTLEMEN: NHTSA's Five Year Plan for Motor Vehicle Safety and Fuel Economy Rulemaking completely fails to address the serious problem of crash protection for occupants of heavy trucks. Not even the exploratory rulemaking, as presently envisioned for the next five years, includes research or analyses directed toward heavy truck crashworthiness. Inattention to the problem is of special concern because of previous neglect; in particular, most existing Federal motor vehicle safety standards for occupant protection (for example, standards to reduce injuries from impact with the steering assembly or other parts of the vehicle interior) do not apply to heavy trucks [1–3].

Size of the problem: In 1977, 950 occupants of heavy trucks[1] were killed in the U.S. (Table 1). To put this figure in perspective, it is similar to the number of car occupants killed in crashes involving fires [4]. Crash-related fires are widely acepted as an important problem and have long been addressed by NHTSA rulemaking.

Increase in deaths: The number of occupant deaths in heavy trucks increased by 32 percent between 1975 and 1977 (Table 1). During the same two-year period, the number of deaths to car occupants increased by only 4 percent, and deaths to occupants of pickups and vans by 20 percent [6].

Problem more serious for heavy trucks than other vehicles: A heavy truck is about twice as likely as a car to be soaked with the blood of a dead occupant. Approximately 4.8 heavy truck occupants are killed annually per 10,000 heavy trucks, versus 2.4 occupants per 10,000 vehicles, for all motor vehicles combined excluding motorcycles (Appendix). In the past, use of death rates per mile of travel had disguised the high death rate per truck. With regard to motor vehicle safety standards—which apply to vehicles, not "vehicle miles"—deaths and injuries per vehicle are a more appropriate basis for establishing priorities than deaths and injuries per mile traveled.

Implications for occupational safety: Heavy trucks, which are the working environment for well over a million truck drivers, have been exempted from most occupant protection standards, even though NHTSA has preempted OSHA in the area of occupational safety as it relates to motor vehicle safety standards [1–3]. The importance of this neglected area of occupational safety is underscored by the high death rate from occupational injuries among truck drivers: a new study [5] (Attached) shown that in Wisconsin, the 1976 death rate per 100,000 workers from injuries incurred on the job was approximately nine times as high for truck drivers as for all other workers combined.

Needed standards: A report on fatally injured truck drivers [3] concludes that:

"As with automobile occupants, prevention of death and reduction of life-threatening impact injuries to truck occupants depend upon spreading the decelerative forces of crashes over space or time, so that injury thresholds are not exceeded. To help accomplish this, energy-absorbing materials should be incorporated into vehicle structures that are external to the occupant compartments, and the occupant compartment itself should be designed so that in a crash it (1) keeps the occupant inside; (2) decelerates the occupant with the vehicle in such a way that serious injury cannot occur, by appropriately restricting the distance and direction moved by an occupant in a crash and ensuring that any surface or structure that can be struck by an occupant contributes adequately to energy-attenuation; (3) remains sufficiently intact that occupant space is not comprised, cargo and other objects do not intrude, and escape or extriction is easy."

The same report stresses the need for passive restraints and for energy-attenuating steering assemblies in heavy trucks. Where solution of these and other problems requires further research, it should be addressed in NHTSA's exploratory rule-making. In some cases, however, it should be relatively easy to modify and extend existing standards—for example FMVSS 201, which requires occupant protection from impact with the vehicle interior—to heavy trucks, as now

[1] The term "heavy trucks" will be used throughout to denote trucks whose gross vehicle weight (GVW) rating exceeds 26,000 pounds.

Digitized by Google

proposed for extension to vans and trucks of 10,000 pounds or less. (Trucks in the 10,000–26,000 pound GVW category, although not the subject of this submission, are also in need of occupant protection standards.)

In summary: The problem of crash injuries and deaths to occupants of heavy trucks is substantial and growing larger. Heavy trucks are twice as likely as other vehicles to be involved in crashes that are fatal to their occupants. Truck drivers have extremely high occupational injury death rates, relative to other workers. Despite NHTSA's regulatory responsibility in this area, standards for ocupant protection generally have not been applied to trucks. NHTSA's Five Year Plan should be amended to give needed attention to this important source of death and injury.

Sincerely,

SUSAN P. BAKER, M.P.H.,
Associate Professor.

APPENDIX: CALCULATION OF OCCUPANT DEATHS PER 10,000 VEHICLES, 1977, UNITED STATES

I. For all motor vehicles, excluding motorcycles:
34,600 occupants killed [6]
144 million registered vehicles [9]
34,600/144 million=2.4 deaths/10,000 vehicles

II. For heavy trucks:
950 deaths to occupants of heavy trucks (GWV>26,000) [6]
2.0 million heavy trucks, estimated as follows:
(a) In 1972 there were 1.50 million trucks, GWV>26,000 [8]
(b) Since then, during the five years 1973–77, 719,000 new trucks, GWV>26,000, were registered in the U.S. [7]
(c) Scrappage for all trucks during those five years averaged 40 percent of new registration [7] Assumption that scrappage for heavy trucks was less (30 percent).
(d) 1.5 million + (70 percent × .719 million) = 2.0 million.
950/2.0 million=4.8 deaths/10,000 vehicles.

TABLE 1.—HEAVY TRUCK OCCUPANT FATALITIES

Trucks greater than 26,000 lb GVWR	1975	1976	1977
Single unit	42	34	68
2 units	651	777	827
More than 2 units	24	48	55
Total	717	859	950

Source: NHTSA's Fatal Accident Reporting System (FARS); file not quite complete for 1977.

REFERENCES AND NOTES

1. Baker, S. P., Wong, J., and Masemore, W. Fatal Tractor Trailer Crashes: Considerations in Setting Relevant Standards. "Proceedings of the Fourth International Congress on Automotive Safety," San Francisco, July 14–16, 1975.
2. Baker, S. P., Wong, J., and Baron, R. D. Professional drivers: Protection Needed for a High-Risk Occupation. Amer J Pub Health 66:649–654, 1976.
3. Karlson, T. A., Baker, S. P., and Morton, B. F. Fatally Injured Truck Drivers. "Proceedings of the 21st Conference of the American Association for Automotive Medicine," Vancouver, Sept. 16, 1977, pp 367–378.
4. In 1976, according to NHTSA's Fatal Accident Reporting System (FARS), 942 car occupants died in cars that had fires. This overestimates the number dying as a result of fires, since an unknown number died of impact injuries.
5. Karlson, T. A., and Baker, S. P. Fatal Occupational Injuries Associated with Motor Vehicles. To be presented at the 22nd Conference of the American Association for Automotive Medicine, Ann Arbor, July 10, 1978.
6. Fatal Accident Reporting System (FARS), NHTSA.
7. Wards Automotive Year Book, 1977 and 1978.
8. U.S. Bureau of the Census. "Census of Transportation, 1972." Truck Inventory and Use Survey: U.S. Summary, TC72–T52, Washington: Govt. Printing Office, 1973.
9. National Safety Council, "Accident Facts" 1978.

Digitized by Google

ILLINOIS AGRICULTURAL ASSOCIATION,
September 5, 1978.

HON. HOWARD W. CANNON,
Chairman, Senate Committee on Commerce, Science, and Transportation, Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: We appreciate the opportunity to express our concerns about S. 2970, the Truck Safety Act of 1978, and to register our opposition to the proposal as it is being heard in the Senate Committee on Commerce, Science and Transportation. We believe this legislation will have an adverse direct effect on farmers and there will be indirect costs that will be incurred by farmers in moving their products to market and in receiving the production supplies they must have to run their farms.

As we read section 4(6), this act would apply to all types of farm wagons, trailers, gooseneck and fifth wheel trailers and nurse tanks. Sec. 5 indicates that all major commercial motor vehicles in excess of 10,000 pounds would also be covered. The most recent agricultural census indicates that there are more than 141,000 trucks, including pickups, on 93,000 farms in Illinois. To our knowledge there are no statistics which would indicate the exact number of trucks on Illinois farms with a GVWR of over 10,000 pounds. It is our best estimate that between 40,000 and 50,000 Illinois farms have 45,000 to 60,000 trucks of over 10,000 pounds GVWR. In addition, we estimate there are in excess of 200,000 trailers, wagons and nurse tanks that would be covered by S. 2970. To our knowledge there is no evidence suggesting such agricultural vehicles have the same type "safety" problems as over the road tractor-trailers.

We believe it would be both counter productive and extremely irritating to the farm community to be forced to comply with regulations which would impose trip logs, physical examinations, restrictions upon hours of driving and certain age limitations.

If the Bureau of Motor Carrier Safety's current proposal on hours of service regulations is adopted, it would mean farmers would be required to give their truck drivers one-half hour off after every two and one-half hours of driving time. What would happen if that particular "break" time occurred when the driver was in line at the local elevator with the farmer's grain? You can imagine how farmers would react to a regulation which would limit to 15 hours the maximum work day in planting and harvesting seasons. I am confident you can appreciate the frustrations and anger that would be generated by this proposal. We urge you and your committee to adopt an amendment which would except farm trucks and vehicles from the provisions of S. 2970.

Farmers are also concerned that their transportation cost will increase as increased costs are passed along as a result of S. 2970. It is understandable that there is support for increasing fines for violations of the laws as it relates to the trucking industry. However, we believe a proposed 500 percent increase in fines is unrealistic. It has been suggested that such increases would merely reflect the overall increase in inflation since the law was originally passed 20 years ago. According to our calculations, a 500 percent increase would be much more than the rate of inflation during the past 20 years.

It would appear that language in the bill concerning "a very serious violation of truck safety regulations" is lacking in clarity as to what exactly constitutes such a violation and could be extremely costly both to administer and to the users of truck transportation. A listing of violations that are to be considered serious must be made available to the carriers so they know how the regulations are to be enforced. It would be helpful for a motor carrier's preventative maintenance program to know what is deemed by DOT as "serious violations" so that such violations might receive top priority in a maintenance program.

We believe the legislation as proposed is lacking in proper balance. It provides criteria that businesses must meet, but offers little constructive help for driver education, driver competence or driver responsibility. At the time S. 2970 was introduced, it was noted in the Congressional Record that "Federal and State vehicle safety programs must be improved to prevent such drivers from posing a damage to both the general public and other truckers." This legislation seems to offer little to protect industry or the public from drivers who are unsafe, who leave safety to others and whose past record indicate such failure and disregard for their fellow travelers.

We are increasingly concerned about the relationship of federal programs to various States as provided in section 13. Repeatedly, we see the Federal Govern-

Digitized by Google

ment enacting legislation which baits the State with Federal dollars to enforce legislation. Yet in many cases Federal dollars do not pay the full cost. State governments act in a similar manner with local governments. We believe it is time for the Federal Government to pay for those programs which it mandates and likewise the State governments to pay for the programs they are mandating upon local governments.

Our overall concern with S. 2970 relates to its cost-benefit ratio. Will passage of this legislation bring about greater benefits than cost, or will this legislation add to the cost of doing business with very little to be gained in terms of improved safety?

Mr. Chairman, we urge your committee to oppose the reporting of this legislation until these and other serious questions can be satisfactorily answered. Until that time, we oppose passage of S. 2970.

Sincerely,

HAROLD B. STEELE, *President.*

LINE HAUL DRIVER FOR INTERSTATE MOTOR FREIGHT,
MEMBER TEAMSTERS UNION,
Cincinnati, Ohio.

Gentlemen, I would like to give a brief testimony before this committee and hope you will give consideration to revise and bring about some changes which are badly needed in the department of transportation. I strongly feel that the DOT should be given the authority to fine Companies on the spot for violating our safety rules and regulations. If I should get stopped for speeding, I would have to pay a fine or post bond, yet if the trucking companies get caught for violating the safety rules of the DOT they are either given a warning and continue the trip or at the most if there is a defect that is bad enough they ground the rig until it is repaired and not fined for the violations. Then the companies have nothing to lose by dispatching unsafe equipment.

Being a line haul driver for over sixteen years I have witnessed large numbers of units being sent out with defects that were dangerous to the safety of our highways. I have also witnessed some drivers which have been fired for refusing unsafe equipment, some of them losing from one week to six months pay and since TEAMSTERS are so weak in these areas of safety, if a driver is reinstated he very seldom receives back pay. I feel there should be laws enforced to protect the public from facing these conditions, and it should not be left up to a Union negiotating committee to determine the safety of our highways. We have received so little help from the Teamsters in these safety areas it is disgusting to think about it.

Years ago when the sixty hour work week was entered in the B.M.C.S. it was intended for a Maximum and today the Company's are using it as a Minimum thus enforcing the driver to either be in service or remaining in readiness from sixty to eighty hours per week. There is a rule in the B.M.C.S. says that a driver will not begin nor continue to run if his ability or alertness is so impaired through fatigue or illness. I have approximately 75 warning letters which was issued to drivers for not being available for work when they were ill or fatigued. I am one along with several others which have been given time off through suspension for refusing to begin a run that I was not physically fit to begin. We (the drivers) cannot continue to fight to enforce these safety regulations if this will cost us time off and possible our jobs.

The Companies pretend to have a maintenance program that looks good on paper as to how they check their equipment each time it goes through a safety lane, but the drivers and mechanics see it from the other side of the cover as to how many trucks are checked and put on the ready lane to run with all manner of defects some of which are dangerous. The company doesn't show the side of the books we see as drivers to the public. As an example the Company I work for used to check the slack adjusters on brakes to see if they needed adjustment each time the unit went through the lane, because this takes maybe two minutes more per unit the Company has stopped this procedure. The only time they check now is if the unit has been written up.

We badly need some type of program to deal with these problems. The few drivers that try to promote safety and to compel the companies to go by the rules that we already have are harassed and given time off and also are given bad trips and some have lost excessive time off without any pay. We get very little help from Teamsters (of which I have been a member over 16 years).

Digitized by Google

I deeply feel that these safety issues to insure public safety should be governed and enforced by the government and the states. There are many other issues that I will not take the lengthy time to express. We need all the help you can give us in support of these issues of health and safety. Your support would be deeply appreciated.

If this committee would like for me to give them documental evidence of the issues which I have spoken about, I will get this information to them. There has been three investigations of Interstate Motor Freight System in which they pointed out violations and there has been hardly any of them corrected as of this date.

Thanks again for your consideration and help.

Yours truly,

WILLIAM E. HARKINS.

WESTERN WOOD PRODUCTS ASSOCIATION,
Portland, Oreg., September 5, 1978.

COMMERCE COMMITTEE ROOM,
Dirksen Senate Office Building,
Washington, D.C.

(Attention Truck Safety Device)

GENTLEMEN: The attached paper is the Western Wood Products Association's position relative to S. 2970.

Our position is also supported by those listed below:

American Plywood Association;
Oregon Log Truckers Association;
Southern Forest Products Association;
Southern Hardwood Lumber Manufacturers Association.
(Members supply 45 percent of nation's hardwood lumber).
Timber Operators Council.

Sincerely,

K. L. PATRICK, *Director, Safety.*

Western Wood Products Association is composed of large, medium and small companies located in the 12 contiguous western states that produce over 40 percent of the nation's softwood lumber. One of the Association's major concerns is safety and health. The Association strongly supports and assists its members and others in conducting programs to improve safety and health conditions.

Mr. Percy's Truck Safety Act of 1978 is well-intended, and we must agree with him that the safety record of the heavy haulers is at its best merely acceptable. We do not object to what Senator Percy is trying to do, but do object to the methods he proposes to achieve the end.

Members of WWPA companies either operate or are served by trucks, many of which are company owned or private contractor operated. Operations consist of both inter and intrastate travel. These trucks not only serve direct in-house industry needs, but also carry wood products to the marketplace in many areas of the United States. For the most part, their activities are unscheduled being responsive to the frequent fluctuations of supply and demand. Many operations, such as log truckers, are affected to a great extent by seasonal and unscheduled weather constraints.

Safety and health in the workplace, whether it be in plant or on the highway is of paramount importance and concern to companies in our industry. Not only do we have deep feeling for our employees, but for those who might be affected by their actions or by the equipment they operate. We feel that our employees, as well as those we serve, are assets that we can ill-afford not to protect. We would be the first to support any legislation or set of rules that would assure us of increased protection of our employees, and the public. However, Senate Bill S. 2970 falls short of offering any such assurance, and would only create another unneeded federal bureaucracy with all of the non-productive jobs and excessive paperwork which would accompany it. It is ironic and rather anomalous that at a time when regulatory reform is supposedly a much sought after goal of the administration, we find ourselves forced to respond to this proposal which appears to comply with neither the letter nor spirit of President Carter's Executive Order 12044.

We believe there are already sufficient laws, rules and agencies in existence to properly cover and enforce highway safety programs if more cost efficient approaches were taken. We see no evidence that would indicate that adding addi-

Digitized by Google

tional laws would do anything to increase the effectiveness of federal or state highway safety programs, or to increase the efficiency of the Department of Transportation. It is our observation that the passage of such a bill would only add an economic and administrative burden to employers activities that would be passed on to the consuming public, thereby adding to an already unacceptable rate of inflation in our country. S. 2970 would be equally counterproductive as many aspects of Public Law 91–596 have been (the Occupational Safety and Health Law).

The proposal completely misses the root of the problem. We do not need additional laws and regulations, but rather better enforcement of the ones we now have.

It is obvious that some states have worse "track records" than others. A case in point is the State of Illinois in 1976, which Senator Percy referred to in his opening remarks that state had 3.6 times as many accidents as occurred nationwide interstate traffic, 21 percent as many fatalities and 70 percent as many injuries. Also, if you refer to the 1973 through 1976 report published by the U.S. Department of Transportation in their section on "Location of Accidents by Region and State," it shows four out of the fifty reporting states contributed to 30 percent of the combined fatalities and injuries.

If, in fact, there is an inordinate number of truck accidents when measured against total highway vehicular accidents, then specific programs under existing laws should be established to deal with the problem in those areas and within states where problems are most acute. States after providing sufficient justification could very well be bolstered by making highway trust fund monies available to upgrade their programs. To insure followthrough, subsidies could be counterbalanced by the withholding of federal highway funds normally allocated to that state.

Another type of incentive might be used to motivate the states into bettering their safety record, such as setting federal and state performance standards. A state would then be judged by their performance against those standards. If progress was not made or if these standards were not maintained, a certain percentage of the federal highway dollar would be withheld until that state's performance improved.

The Percy Bill does not take into account that driver's are key figures in vehicular accident prevention. The bill places all responsibility and accountability on the employer for the actions of employees. The employer is held responsible for the actions of an employee regardless of his past driving record, his immediate state of health, temporary or physical condition, and his attitude. The Percy Bill completely sidesteps the establishment of employee or union responsibility for driver performance standards, physical profiles and such. Employers cannot be held accountable for aspects of their driver program over which they have no control.

In the U.S. Department of Transportation's report titled "Analysis and Summary of Accident Investigation 1973–1976," the section entitled Human Factor Accidents—ambience indicates that 90 percent of the human factor caused accidents were in areas which are directly uncontrollable by management.

In the area of Poor Driving Skills inexperience, which is the only employer controllable area, accounted for 26 percent of the accidents. Over the past several years unions have gained such a "strong hold" over management, a driver cannot be fired for minor infractions in driving skills or judgment. Some unions even go so far as to say that a driver's record should be "wiped clean" on a yearly basis.

It is doubtful that the figures presented in the preamble to the Percy Bill are valid. Trucks account for approximately one percent of the total registered vehicles in our country. The figures presented on highway fatalities gave no consideration to the time or miles driven by trucks, versus time or miles driven by other highway vehicles. In the absence of such a comparison, it would be difficult to measure what in fact the degree of the problem might be. As presented there is total lack of justification enacting the Percy Bill.

Additionally, there is no need to increase the maximum level of fines for safety violations from 500 per occurrance to $2500. Even in the best managed trucking operations, it is possible to amass sufficient hours of service qualifications and maintenance violations at the $500 rate to be debilitating if the present rules were

Digitized by Google

enforced. We also disagree with civil forfeiture methods, which would encourage more violations to be alleged and cited by highway inspectors. To allow civil forfeiture proceedings to supplant the criminal proceedings that are now required would remove a valuable check against unbridled government sanction.

In general, federal regulations are intended as minimum standards for the states to operate under. Therefore, the responsibility of each state is to enforce them. States can even add to these regulations where it is advisable to make them more stringent to meet local conditions. It is DOT's responsibility to ensure state compliance with federal standards in safety and standards setting. It is, likewise, DOT's responsibility to check for violations and make meaningful suggestions or changes to state regulations.

Presently there are 133 federal investigators in the compliance division of the Bureau of Motor Carrier Safety. In addition to these investigators, each state has personnel who maintain and operate scale houses and a highway patrol. Getting states into the enforcement effort, as proposed by this bill, would be counterproductive and would compound the problem of solving issues that the federal government and states have been unable to agree upon for years, such as: a national driver register, driver licensing requirements, availability of previous work history, etc. If the congress could solve these issues it would be far better than writing counterproductive bills such as S. 2970.

In summary, Bill S. 2970 would create another unneeded federal bureaucracy with non-productive jobs and excessive paperwork, at a time when the administration is suggesting a cutback. The bill is not in keeping with that theme. There are now sufficient state laws and state agencies to handle and enforce safety problems. The passage of this bill would result in an economic burden to employers, cause unwanted harassment and would provide no further means for controlling the actions of individual employees.

We wish to support the Private Truck Council of America, Inc. relative to their position on S. 2970.

○

Digitized by Google

Digitized by Google

DEPOSIT
FEB 2 1979
SHIPPED

Digitized by Google

Y 4.C 73/7:95-132 C.1
Truck safety act of 19
Stanford University Libraries
3 6105 045 203 747

DATE DUE			

STANFORD UNIVERSITY LIBRARIES
STANFORD, CALIFORNIA 94305-6004

Digitized by Google

DEPOSIT
FEB 2 1979
SHIPPED

Digitized by Google

Y 4.C 73/7:95-132 C.1
Truck safety act of 19
Stanford University Libraries
3 6105 045 203 747

DATE DUE			

STANFORD UNIVERSITY I RA
STANFORD, CALIFORNIA

Digitized by Google

Digitized by Google